

SMALL BUSINESS ADMINISTRATION PUBLIC HEARING

)
)
)
)
)
SMALL BUSINESS ADMINISTRATION PUBLIC)
)
HEARING ON PROPOSED NEW SIZE)
STANDARD POLICY)
)
)
)
)
)
)
)
)
)

1200 Sixth Avenue
Seattle, Washington

June 2, 2005
8:30 a.m.

BEFORE:

PATRICIA M. CAVANAUGH,

Chairperson,

CARL JORDAN
CONNIE MARSHALL
JIM HUTCHINS

Panel members

Carl T. Beck, Court Reporter
CCR 2952

INDEX OF TESTIMONY

OPENING STATEMENT BY MS. PATRICIA CAVANAUGH	7
OPENING ADDRESS BY MR. NORM PROCTOR	9
TESTIMONY	PAGE
MARK BENJAMIN Nura, Inc. 1124 Columbia Street Seattle, WA 98104 [206] 344-2075 mbenjamin@nurainc.com	15
JACK FARIS Washington Biotechnology & Biomedical Association 200 First Avenue, Suite 200 Seattle, WA 98119 [206] 624-1967 jack@washbio.org	19
JUSTIN BORTON	25
ADDRESS BY CONGRESSMAN JAY INSLEE	31
STEWART PARKER Targeted Genetics Corp. 1100 Olive Way, Suite 100 Seattle, WA 98101 [206] 521-7810 H.Stewart.Parker@targen.com	36

1 RICK SHINDELL
2 Zyn Systems/SBIR Gateway
3 40 Alderwood Drive
4 Sequim, WA 98382
5 [360] 681-1412
6 rick@zyn.com

38

7 CATHERINE INNES
8 UW TechTransfer
9 University of Washington
10 4311 Eleventh Avenue, NE,
11 Suite 500
12 Seattle, WA 98105
13 [206] 543-0905
14 copycat@u.washington.edu

42

15 KATHY LESTER
16 Earthworks Environmental, Inc.
17 494 E. Meadowview Lane
18 Oak Harbor, WA 98277
19 [360] 661-4422
20 klester@earthworksenv.com

46

21 HUGH BROWN
22 BAMSI, Inc.
23 P.O. Box 1659
24 Titusville, FL
25 [321] 269-4193
bamsihmb@worldnet.att.net

50

JOHN BOSMA
Bosma Research International, Inc.
1420 Fifth Ave., 22nd Floor
Seattle, WA 98101

55

[206] 224-3509
john.bosma@bosma.research.com

1 EDWARD TONKIN
2 Ron Tonkin Dealerships
3 National Automobile
4 Dealers Association
5 122 NE 122nd Ave.
6 P.O.Box 20368
7 Portland, OR 97230
8 [503] 255-4100
9 ectonkin@tonkin.com
10
11

59

12 RALPH IBERRA
13 Marketeer Unlimited
14 826 Algona Blvd. N.
15 Algona, WA 98001
16 [321] 269-4193
17 Ralph@MBEWorld.com
18
19

63

20 REGINA GLENN
21 Pacific Communications
22 Consultants, Inc.
23 Belle Field Office Park,
24 Careage Building
25
26 1400 112th Ave. S.E., Suite 100
27 Bellevue, WA 98004
28 [425] 455-5997
29 pcc@pccus.com
30
31

67

32 STAN KAWAMOTO
33 J. Harper Contractors, Inc.
34 17937 Cedar Grove Road, SE
35 Maple Valley, WA 98038
36 [425] 413-9501
37 stankaw@comcast.net
38
39
40
41
42

77

1 CONOR COUGHLIN 80
2 Advanced Energy Services, Inc.
3 10924 Mukiteo Speedway, #110
4 Mukiteo, WA 98275
5 [877] 546-1909
6 conor@advancedenergysvc.com

7 JOANNE WOOD 83
8 Engineering 2000, Inc.
9 14241 NE Woodinville Duvall Road, Suite 233
10 Woodinville, WA 98072
11 [425] 485-2752
12 eng2000inc@msn.com

13 RON BERENSON 85
14 Xcyte Therapies, Inc.
15 1124 Columbia Street, Suite 130
16 Seattle, WA 98104
17 [206] 262-6218
18 rberenson@xcytetherapies.com

19 CHARLES MAISE 89
20 ANAWAH
21 1124 Columbia Street
22 Eklind Hall, 6th Floor
23 Seattle, WA 98104

24 PAUL ABRAMS 91

25 DAVE DENSLEY 96
Technology Integration Group
1606 148th Ave. SE, Suite 100
Bellevue, WA 98007
[425] 747-2633
Dave.Densley@tig.com

1 KATHY HOBBS

102

[Read into the record by Victor Valdez.]

2 Media Logic

3 Creating The Next Wave

[206] 243-1000

4 www.medialogic.com

5 VICTOR VALDEZ

103

6 Northwest Minority Business Council

7 [206] 575-7748

8
9 ED ALMOJUELA

107

10 Siem, Inc.

11 3550 Byron Street NW,

12 Silverdale, WA 98383

[360] 308-8270

13 siem@qwest.net

14
15 L. DAVID TYWER

112

16
17 ANDREW BROWN

115

ACULIGHT

18 11805 North Creek Parkway S., Suite 113

Bothell, WA 98011

19 [425] 877-2300

20 andrew.brown@aculight.com

21
22 CLOSING REMARKS BY PATRICIA CAVANAUGH

118

1 OPENING STATEMENT BY MS. CAVANAUGH

2
3 MS. CAVANAUGH: Good morning. Today is Thursday,
4 June 2nd, 2005, and the time is approximately 8:30 a.m.

5 This is a public hearing conducted by the United
6 States Small Business Administration at its offices located
7 at 1200 Sixth Avenue, Suite 1700 in Seattle, Washington,
8 pursuant to the notice of public hearing published in the
9 Federal Register on May 12, 2005.

10 The purpose of today's hearing is to obtain the
11 views of SBA stakeholders on how to improve the agency's
12 standards and whether businesses that are majority-owned by
13 venture-capital companies should be allowed to participate
14 in the Small Business Innovation Research Program.

15 My name is Patricia Cavanaugh. I am a senior
16 attorney with SBA's office of general counsel, and I will
17 be moderating today's hearing.

18 Joining me on the panel are Carl Jordan, Connie
19 Marshall, and Jim Hutchins.

20 Carl is a program analyst with SBA's office of
21 size standards in Washington, D.C. Carl not only helped
22 draft the agency's proposed size-standard rule and the
23 Advanced Notice of Proposed Rulemaking, but he has read
24 thousands of the public comments that we received in
25 response to those documents.

1 Given his expertise, experience, and position
2 with the agency, I'm certain that he will make sure that
3 all of your views and opinions expressed at today's hearing
4 are taken into consideration before the agency proposes its
5 next size-standard rule.

6 Connie is the Region 10 small business advocate
7 for the Office of Advocacy. Connie is also the mayor of
8 Bellevue. Given her two roles, she not only understands
9 the importance of small businesses to our economy,
10 including those that perform research and development
11 functions, but brings to the panel a wealth of knowledge on
12 how to advocate on behalf of small businesses.

13 In fact, Connie was recently named one of 100
14 most influential people in this state by Washington CEO
15 Magazine.

16 Jim Hutchins is currently an industrial
17 specialist with SBA's office of government contracting. In
18 addition to his 25 years of specialized experience in
19 federal procurement, Jim has over 15 additional years
20 experience in applying size standard in the operation of
21 almost every program that SBA delivers on the field office
22 level.

23 Also with us this morning is Norm Proctor, the
24 administrator for Region 10, and Norm will be giving the
25 opening remarks for today's hearing.

1 OPENING ADDRESS BY MR. NORM PROCTOR

2
3 Good morning. Welcome to SBA's size standard
4 hearing. I'm Norm Proctor, Regional Administrator, serving
5 the states of Alaska, Idaho, Oregon, and Washington.

6 I'm pleased to host today's hearing in Seattle.
7 I oversee the activities in Region 10 consisting of all the
8 programs, budget, and staff.

9 The mission of SBA is to maintain and strengthen
10 the nation's economy by aiding, counseling, assisting, and
11 protecting the interests of small businesses and by helping
12 families and businesses recover from national disasters.

13 SBA is the number one agency to help new
14 entrepreneurs start a business and the number one agency to
15 expand existing businesses.

16 Size standards are a fundamental issue within SBA
17 since it determines which businesses are eligible for SBA
18 assistance, small businesses preferences on federal
19 contracts, and small business assistance for many federal
20 programs and regulations.

21 As Pat Cavanaugh mentioned, the purpose of
22 today's hearing is to hear from you on issues pertaining to
23 size standards.

24 In particular ways SBA may simplify size
25 standards and other issues to make size standards easier to

1 understand and use.

2 The testimony presented today on size standards
3 along with other comments we received to the 2004 Advanced
4 Notice of Proposed Rulemaking will be used to help SBA
5 develop new proposals to further those objectives.

6 We're also taking this opportunity of these
7 hearings to seek the public's views on whether businesses,
8 as Pat mentioned, majority-owned by venture-capital
9 companies, should be allowed to participate in the Small
10 Business Innovation Program.

11 On behalf of myself and the Administrator, Hector
12 Poreto, we thank you for taking your time out of your busy
13 schedule to participate in this vitally important effort.
14 I will now turn the meeting back over to our moderator, Pat
15 Cavanaugh.

16 PATRICIA CAVANAUGH: Thank you, Norm. We're
17 going to take a minute and turn the podium back around
18 here.

19 Before we begin taking public testimony, I would
20 like to explain the format for the hearing and go over the
21 ground rules with respect to oral testimony.

22 First of all as published in the Federal Register
23 notice, today's hearing will last until 5:30 p.m. We'll
24 convene for lunch at 12:30, resume at 1:00 and take breaks
25 throughout the day as needed.

1 If everyone interested in testifying has had the
2 opportunity to do so before 5:30, we'll adjourn early.

3 So far we have 71 individuals registered to
4 attend today's hearing with 30 who would like to testify.

5 If there's anyone else present today who didn't
6 register to testify but would like to do so, please see
7 Lola Davidson at the registration desk, and add your name
8 to the list, and, if time allows, we would be happy to
9 accept your oral testimony.

10 All oral testimony presented at today's hearing
11 will be recorded and transcribed by our court reporter. If
12 you have a written copy of your testimony or supplemental
13 materials and haven't already done so, I would encourage
14 you to place it in the box on the registration table.

15 All of the testimony from today's hearing, both
16 written and oral as well as any supplemental materials that
17 you have provided, will become part of the administrative
18 record that SBA considers when it resumes deliberation on
19 how to improve its size standards and related regulations
20 such as those pertaining to SBIR eligibility.

21 The ground rules for testifying are based on a
22 number of events leading up to today's hearing beginning
23 with SBA's publication of a proposed rule to restructure
24 its small business size standards in March of 2004.

25 In a nutshell the proposed rules called for

1 reducing the number size standard levels from 37 to 10, and
2 converting receipts-based size standards to employee-based
3 size standards.

4 After studying the concerns expressed by members
5 of the public who responded to SBA's request for comment on
6 that proposed rule, the agency decided that it needed to
7 gather additional public input on a number of issues, most
8 which were raised by folks such as yourselves who submitted
9 comments.

10 As a result the agency withdrew the proposed rule
11 and decided to pursue two courses of action in order to
12 gather more public input.

13 First, on December 3rd of 2004, SBA published an
14 Advanced Notice of Proposed Rulemaking requesting comments
15 on how to simplify and improve SBA's size standards in
16 general and on 11 specific topics most of which were based
17 on the comments that the agency received with regard to the
18 proposed rule.

19 Second, SBA decided to conduct a series of public
20 hearings throughout the country to provide interested
21 parties with an opportunity to meet with SBA officials and
22 express their views on size standards in general as well as
23 the 11 topics specified in the Advanced Notice of Proposed
24 Rulemaking. This is one of the first hearings exhibit
25 series.

1 And that brings us to the ground rules for
2 today's hearing. As stated in the public notice, if you
3 would like to testify today, your testimony must pertain to
4 either the general topic of how to make SBA's size
5 standards easier to use and understand or one or more of
6 the 11 specific topics identified in Advanced Notice of
7 Proposed Rulemaking. Those include: one, the approach to
8 simplify size standards; two, the calculation of the number
9 of employees including how SBA defines an employee for size
10 purposes; three, the use of receipts-based size standards;
11 four, the designation of size standards for federal
12 procurements; five, the establishment of separate and
13 distinct standards for use solely in federal procurement
14 programs; six, the establishment of tiered size standard;
15 seven, the simplification of the affiliation regulations;
16 eight, the simplification of the small business joint
17 venture eligibility regulations; nine, the possible
18 grandfathering of small business eligibility; ten, the
19 impact of SBA's size standards on the regulations of other
20 federal agencies; and eleven, the possible participation of
21 businesses, majority-owned by venture-capital companies, in
22 the Small Business Innovation Research Program and the
23 effect such participation would have on the program.

24 Out of respect to the 70 people who have taken
25 the time from their busy schedules to listen to public

1 testimony on size standards and SBIR eligibility, if you
2 are testifying and appear to be veering off topic, I will
3 interrupt you and ask that you either stay on topic or be
4 seated.

5 Individuals will be called to testify in the
6 order established by the pre-registration sign-in sheet.
7 When you hear your name, please step up to the podium and
8 use the microphone to address the panel. Before you begin
9 your testimony, please state your name and title as well as
10 the name of the organization if any on whose behalf you're
11 testifying. Oral testimony will be limited to five minutes
12 per speaker. Mr. Hutchins will be serving as our
13 timekeeper, and he will display a green card when you have
14 one minute left, a yellow card which indicates you have 30
15 seconds left, and a red card which means that your allotted
16 time has expired.

17 SBA values your views and opinions and would like
18 to hear from everyone interested in testifying. In order
19 to do so, the time limit will be strictly enforced.

20 Please note also that once you have finished your
21 presentation, the panel members may ask you questions to
22 ensure that they understand your views and positions so
23 that the agency can take them into consideration when it
24 resumes its deliberations on these important issues.

25 Finally, because the purpose of the hearing is to

1 gather your opinions and ideas, members of the panel will
2 not indicate whether they agree or disagree with the
3 presenter's views or engage in debate with them.

4 Now that we have established the ground rules,
5 I'd like to begin oral testimony, and I believe that Diana
6 will be asking Ms. Davidson to bring in the registration
7 sheet.

8 MS. DRAKE: She said this is the most current at
9 the moment.

10 MS. CAVANAUGH: Thank you.

11 Our first speaker will be Mark Benjamin
12 followed by Jack Faris.

13
14
15 TESTIMONY OF MR. MARK BENJAMIN
16

17 Many thanks for giving us the opportunity to
18 testify before this hearing today. We commend the Small
19 Business Administration for seeking public discussion
20 through its recent ANPRM.

21 My name is Mark Benjamin. I serve as the Chief
22 Business Officer of a small biotechnology company in
23 Seattle called Nura. The company employs 20 full-time
24 staff, ten of whom hold doctorate degrees, and we are
25 supported in part by local venture capital companies, Arch

Venture Partners, and Vulcan Capital.

I'd first like to comment on the 500 employee rule. In 13 CFR Part 121 the SBA describes the role of size standards as one of ensuring that federal small business assistance is directed towards businesses that as a consequence of their small size have inherent disadvantages. The control of a small business by a larger affiliate often leads to the mingling of assets, know-how, finances, profits and losses, and operations; and so the inclusion of affiliate employee numbers from these corporate affiliations may be reasonable in determining SBIR eligibility. In contrast, there is generally no mingling of assets, know-how, finances, P&L or operations between small businesses and the VC companies that invest in them, or with the limited partners who participate in these VC's funds. As a consequence, VC company affiliation does not increase the size or capabilities of a small business, though data suggest that it appears to contribute significantly to the chances of long-term small business success in the public equity markets.

For drug discovery companies like Nura, many millions of dollars must be invested in order to bring a therapeutic to market. At the recent Invest Northwest conference in Seattle, the need for VC syndicates to invest up to 100 million dollars to enable the early development

1 of a therapeutic was a topic of much discussion. SBIR
2 awards have been, until recently, a fundamental part of the
3 financing landscape for small biotech companies, and at
4 Nura's founding an explicit understanding existed between
5 the company and its investors that these funds, in
6 combination with their investments, were the essential mix
7 required for the growth of the company. Since the vast
8 sums required make it unlikely that SBIRs alone can support
9 the development and commercialization of therapeutics,
10 making SBIRs and venture capital mutually exclusive works
11 against what is clearly a primary objective of the Small
12 Business Innovation Development Act -- encouraging private
13 financing and commercialization of the most promising
14 federally funded R&D.

15 Since an investment made by a venture capital
16 company does not grant to small biotechnology company the
17 advantages of being affiliated with the limited partners of
18 that venture capital fund, we respectfully request that
19 such affiliations be excluded for the purposes of SBA's
20 size standard eligibility measurements.

21 The 51% rule: SBA use of the term "individual"
22 to exclude venture capital companies means that even those
23 small businesses that pass the 500 employee rule probably
24 remain ineligible for SBIR awards. Seventy percent of US
25 biotechnology companies who responded to a recent survey

1 have fewer than 50 employees, and most are privately owned
2 by VC company syndicates. If left to stand, the currently
3 applied definition of "individuals" will force the vast
4 majority of privately-owned biotechnology companies in the
5 US out of the SBIR program.

6 The biotechnology industry contributes
7 significantly to the US economy and to US global
8 competitiveness. The combined market capitalization of all
9 publicly-traded US biotechnology companies in 2004 was 311
10 billion dollars; almost 8,000 new patents were granted to
11 the US biotech industry in 2002, and 37 new biotech drug
12 approvals were granted in 2003. All of the publicly-traded
13 biotechnology companies today required venture capital
14 investments. If SBIRs are to be used to create lasting
15 value in the form of employment, tax revenues, and
16 technology, it must acknowledge that commercial success in
17 biotech is virtually impossible in the absence of venture
18 capital. The members of these venture capital syndicates
19 collaborate to create the best environment for success.
20 Votes by VC representatives take place at the policy level,
21 and not in day-to-day management -- in much the same way
22 that an individual investor would hope to exercise his or
23 her rights. There is, therefore, a compelling argument to
24 be made for treating a venture capital company in the same
25 way as an individual investor. We respectfully request for

1 the purpose of these size requirements that 13 CFR 121 be
2 revised to permit venture capital companies to count
3 towards the 51% ownership and control rules.

4 Dr. Linda Buck of the Fred Hutchinson Cancer
5 Research Center says in a letter to Nura, Although I am
6 concerned about the future of Nura, I'm even more concerned
7 about the broad effects of the reinterpreted SBA guidelines
8 on this country's biotechnology industry as a whole.

9 Linda Buck is the 2004 recipient of the Nobel
10 Prize in physiology or medicine.

11 Thank you, very much.

12 MS. CAVANAUGH: Thank you for your comments,
13 Mr. Benjamin.

14 Does anyone on the panel have a question they
15 would like to ask of him?

16 MR. JORDAN: No. Thank you, very much.

17 MS. CAVANAUGH: Thank you. Jack Faris?

18
19
20 TESTIMONY OF MR. JACK FARIS

21
22 Good morning. My name is Jack Faris. I'm
23 president of the Washington Biotechnology & Biomedical
24 Association. Our association includes over 230 companies,
25 most of which are small by any definition, that are working

1 on a daily basis to address the issues of cardiac disease,
2 stroke, cancer, arthritis, diabetes multiple sclerosis,
3 Alzheimer's, and many other dread human diseases.

4 This is very difficult science. It's also very
5 difficult to succeed as a business over the often more-
6 than-a-decade process to get a product approved and to
7 market.

8 On behalf of WBBA I would like to thank SBA and
9 the members of the hearing panel for conducting this series
10 of public hearings to provide the small business community
11 with an opportunity to comment on the future of SBA's size
12 standards.

13 My comments today will focus on an issue that
14 affects many of WBBA members -- that is, the obstacles to
15 participation in the Small Business Innovation Research
16 Program by businesses that are majority-owned by venture
17 capital companies.

18 The SBIR program is an important source of
19 funding early stage biotechnology research. Specifically,
20 small biotechnology companies rely on Phase I and Phase II
21 grants to fund cutting-edge research in areas where venture
22 capital and other sources of financing are difficult to
23 obtain. However, to be eligible for an SBIR award, a
24 business concern must be at least 51% owned and controlled
25 by quote individuals who are citizens of the United States;

1 in addition, the concern may not have more than 500
2 employees including its affiliates.

3 Through a series of rulings SBA's Office of
4 Hearings and Appeals has interpreted the term "individuals"
5 to mean "human beings." This interpretation excludes
6 corporations and all other forms of artificial entities,
7 including VCs.

8 There is no statutory requirement that compels
9 this interpretation, nor is there a definition of the term
10 "individual" in the law establishing the SBIR program.

11 As a result many small businesses in the
12 biotechnology sector cannot participate in the SBIR program
13 because one or more of their owners or investors is a
14 corporate entity or a VC.

15 The unnecessary exclusion of these small
16 businesses is not consistent with the purpose of the SBIR
17 program, which is to stimulate small businesses that will
18 commercialize important technological developments. The
19 exclusion could also lead to a decline in the quality and
20 quantity of SBIR grant applications submitted to NIH and
21 other agencies involved in bioterrorism and other important
22 health-related activities.

23 In early 2005 the Biotechnology Industry
24 Association conducted an informal survey of its members.
25 The survey results confirmed the SBA's interpretation in

1 limiting many small biotechnology companies from
2 participating in the SBIR program. Although more than 70%
3 of the survey respondents were privately-owned small
4 businesses with fewer than 50 employees, many of them
5 reported that they are ineligible to receive an SBIR grant.

6 Specifically, of the privately held companies,
7 70% are majority owned and controlled by multiple VCs. The
8 number of VCs that have an equity state in the small
9 businesses range from 2 to 22.

10 I think this next point is very important: Only
11 one VC has an equity stake greater than 40% in the survey
12 respondents. While most VCs owned between 7% and 30% of
13 the small businesses.

14 Over the last five years, 62% of the survey
15 respondents, public and private companies, applied for SBIR
16 grants. Exactly half of these applicants were either
17 denied SBIR grants immediately because they could not meet
18 the SBIR eligibility requirements due to their ownership
19 structure or were subsequently denied the grant due to an
20 adverse size determination.

21 Finally, over 60% of the privately-held companies
22 responded that they have chosen not to apply for SBIR
23 grants due to perceived eligibility concerns.

24 To remove this barrier to participation in the
25 SBIR program, we urge SBA to revise the SBIR eligibility

1 requirements and issue a rule that reflects Congress's
2 original intent to encourage awards to small businesses
3 that have successfully attracted outside investors.

4 The approach proposed by SBA in its December 3rd,
5 2004, Advanced Notice of Proposed Rulemaking to disregard
6 affiliation is a step in the right direction; however, it
7 does not address the fundamental obstacle, which is SBA's
8 requirement that small businesses be majority-owned and
9 controlled directly or indirectly by individual human
10 beings.

11 We recommend that SBA adopt a rule that addresses
12 the actual ownership structure of small biotechnology
13 companies that are owned and controlled by venture capital
14 companies. Specifically, we suggest that the size
15 requirements be revised to permit VC ownership of SBIR
16 applicants to count toward the 51% US ownership and control
17 requirement. This would allow greater participation in the
18 SBIR program by small biotechnology companies, but would
19 not permit participation by venture-owned firms that are
20 affiliated with large companies.

21 These proposed changes would allow small life
22 sciences businesses to take advantage of this important
23 program and participate in research efforts that are
24 critical to our nation's health, safety, security, and
25 economic nature.

1 Thank you, very much.

2 MS. CAVANAUGH: Thank you for your testimony,
3 Dr. Faris.

4 Does anyone on the panel have a question?

5 MR. JORDAN: Just one question, Doctor.

6 You talk about -- you mentioned the only
7 exception is -- there are no exceptions, basically, to the
8 51% rule.

9 We published a final rule. Are you aware of the
10 final rule last December -- that took effect in December?
11 It allows another company to own a company that
12 participates in the SBIR program.

13 DR. FARIS: I'm not clear --

14 MR. JORDAN: A company now that participates in
15 the SBIR program may be owned by another company that's
16 more than 51% now.

17 DR. FARIS: I see. I'm not sure how many of our
18 members --

19 MR. JORDAN: That was changed effective sometime
20 in December of 2004.

21 DR. FARIS: Well, we'll have to study that. I --
22 I -- sense from --

23 MR. JORDAN: Which would allow a VC to own a
24 company, however it's not included from affiliation. That
25 -- it's just part -- it would be considered an affiliate

1 together with any other companies that that company -- if
2 it's their one and only, no problem.

3 DR. FARIS: I think that sounds like a helpful
4 step in the right direction.

5 MR. JORDAN: Yes. It is. Yeah. We thought so.

6 DR. FARIS: All right. Thank you, very much.

7 MR. JORDAN: Okay.

8 DR. FARIS: Other questions? Thank you, very
9 much.

10 MS. CAVANAUGH: Thank you.

11 Our next speaker will be Justin Borton
12 followed by Hugh Himmelreich.

13
14
15 TESTIMONY OF MR. JUSTIN BORTON

16
17 Good morning. My name is Justin Borton. I am a
18 private citizen. I'm also a volunteer for the American
19 Small Business League. I'm against Grandfathering or
20 Tiered size standards or anything that's going to help
21 large corporations get small business contracts.

22 And on this point the SBA and I should agree
23 given that SBA's mission statement is to maintain and
24 strengthen the nation's economy by aiding, counseling,
25 assisting, and protecting the interests of small business.

1 Small business. So what is small business? I've
2 asked this question over and over, and almost unanimously,
3 I get the same answer: approximately 50 employees or less.
4 I've never heard anyone say that a company like AT&T or
5 Burhmann, a multinational Dutch conglomerate, is a good
6 example of a small business. But no matter how many
7 Americans think that small business is a 25-person company
8 in their home town or a mom and pop computer store, it is
9 just their opinion. And so let's set aside our opinions
10 for a minute and get some objective input.

11 There have been seven reports conducted on the
12 issue of small business contracts going to large
13 corporations. Four of those reports were done by the SBA's
14 own Office of Inspector General. And these reports
15 repeatedly cite fraud, intentional misrepresentation, and
16 accuse the SBA with being more concerned with hitting their
17 goals than helping small business.

18 One report says, and I quote, If SBA had put as
19 much effort into verifying whether the company currently
20 met the award size standard as it put into trying to find
21 ways to earn credit towards its small business goals, then
22 perhaps a contract action would have been awarded to a
23 company that was legitimately small at the time of the
24 award. And that's from Report Number 514.

25 The SBA's own Office of Inspector General has

1 made dozens of recommendations over the past ten years to
2 ensure large businesses do not receive small business
3 contracts. So it makes sense that over the past ten years
4 with such a well-documented problem that the SBA would
5 adopt some of these recommendations. It does make sense,
6 but no. To date, the SBA has not implemented one of these
7 recommendations.

8 Instead, we are here today to respond to more
9 proposed policies like Grandfathering so large corporations
10 can get more small business contracts.

11 But is that why we're really here? The SBA has
12 already asked for and received comments from small business
13 owners on this proposal, approximately 6,000 comments, and
14 that's 100 times more responses than they usually get, and
15 over 90% expressed opposition to this current proposal.

16 So we already know that for every thousand small
17 businesses hurt by Grandfathering one large corporation
18 will benefit from it.

19 But these large corporations should have never
20 gotten small business contracts to begin with, and that's
21 really the biggest problem here. It's how are these
22 proposed changes going to stop large corporations from
23 getting small business contracts? Well, the answer is
24 they're probably not. They're just going to Grandfather in
25 billion-dollar corporations that should have never been

1 certified small businesses in the first place.

2 Ninety-eight percent of all US firms have less
3 than 100 employees, and that's 23 million companies. In
4 1985 the SBA increased the small business size standard for
5 non-manufacturers from 100 to 500 employees without an 11-
6 city tour.

7 The dictionary defines the word "small" as being
8 below the average. The average company in America has ten
9 employees, but the current size standard for a small
10 business is 50-times larger than the average American
11 business. The SBA needs to return the definition of small
12 business back to 100 employees. The Small Business Act of
13 1953 defines a small business as one which is independently
14 owned and operated and not dominant in its field of
15 operation.

16 So allow me to read to you a few companies that
17 are considered by the SBA as small businesses today:
18 Federal Express, Boeing, Office Depot, AT&T, Titan
19 Corporation, Verizon, and the list goes on. It reads like
20 a Who's Who of corporate America.

21 We need to get publicly traded and Fortune 500
22 companies out of small business. That's what we should be
23 talking about here, but liquidated damages and all other
24 existing federal laws for noncompliance with small business
25 goals have never been enforced. The SBA knows the law.

1 They have the evidence of fraud. When are we going to
2 start protecting the interests of small business?

3 So in conclusion, there is one thing that large
4 and small companies alike can agree on is that the SBA's
5 current proposals will take small business contracts out of
6 the hands of small businesses and into the hands of large
7 corporations. And to a few large companies, this is
8 obviously a great idea, but to many of the 23 million small
9 businesses, it is a most certain death sentence.

10 So, please, do as your mission states and
11 maintain and strengthen the nation's economy by aiding,
12 counseling, and assisting, and protecting the interests of
13 small business.

14 Thank you, very much.

15 MS. CAVANAUGH: Thank you for your comments,
16 Mr. Borton. Does anyone on the panel have any
17 questions?

18 MR. JORDAN: Yes, I do. Mr. Borton, we
19 understand your comments are definitely opposed to the
20 Grandfathering, and we appreciate those comments, but you
21 mentioned that SBA proposed Grandfathering?

22 MR. BORTON: In the --

23 MR. JORDAN: Where did you get the -- I'm not
24 sure where that concept came from.

25 MR. BORTON: Okay. Well, one of the 11 proposed

1 rule changes that were issued and that we were to comment
2 on was the idea of Grandfathering --

3 MR. JORDAN: I just would like to clarify that.

4 MR. BORTON: Okay.

5 MR. JORDAN: That is not an SBA proposal. Those
6 11 points -- actually, ten of them except for the SBIR
7 proposal -- discussion -- were as a result of the proposed
8 rule that we published last year in which we rule on July
9 the first -- these were ten additional subjects that had
10 not been considered in the proposed rule that other
11 commentors brought up; enough commentors that we thought we
12 should get more feedback on it.

13 MR. BORTON: Great. Well, thank you --

14 MR. JORDAN: That's exactly what we want --

15 MR. BORTON: -- for clarifying that.

16 MR. JORDAN: That's exactly what we want. We
17 want more feedback. And we understand that you're opposed
18 to it, but SBA has not proposed anything of the kind.

19 MR. BORTON: Great. Well, thank you for
20 clarifying that.

21 MR. JORDAN: Okay. Okay. Thank you for your
22 comments.

23 MR. BORTON: Thanks.

24 MR. JORDAN: Could you tell me how large ASBL is?
25 Do you know how many members you have?

1 MR. BORTON: No. I do not know --

2 MR. JORDAN: Okay. Just curious.

3 MR. BORTON: -- how many members the ASBL has.

4 MR. JORDAN: Because I've heard, you know, that
5 you're very prominent. Okay. Thank you.

6 MR. BORTON: Thank you.

7 MS. CAVANAUGH: Our next speaker will be

8 Hugh Himmelreich followed by H. Stewart Parker.

9 Okay. Since Mr. Himmelreich isn't here,
10 Congressman Jay Inslee is, and he would like to make a
11 brief statement on the SBIR program. So we will allow him
12 to do that at this time.

13 Congressman Inslee, thank you for coming. Would
14 you prefer to face the audience or would you like -- prefer
15 to address the panel?

16 CONGRESSMAN INSLEE: I have -- both sides are
17 bad, so I don't know which -- how about if I address the
18 panel -- you've come all this way -- if that's okay?

19 MS. CAVANAUGH: All right. Thank you.

20
21
22 STATEMENT BY CONGRESSMAN JAY INSLEE

23
24 Thank you. I'm Jay Inslee. I represent the
25 First Congressional District, which is just sort of the

1 North Seattle region going up to Everett and over in Lake
2 Washington a little company called Microsoft located in
3 Redmond and up to Monroe. I want to thank you for your
4 interest in this subject and being here. I came this
5 morning with just one particular comment that I hope that
6 you will consider. And it's, maybe, a little peripheral to
7 the size standards, but I think very, very important. So I
8 wanted a chance to talk with you about it.

9 I represent one of the -- probably the most
10 intense, acre-by-acre place of innovation in the country if
11 not the world. We have in Bothell, Washington,
12 Redmond/Kirkland area some of the most cutting-edge small
13 businesses involved in innovation, really, in the world. I
14 can't turn around in the grocery store parking lot without
15 running into a constituent who's got a small business who's
16 inventing the next "X." Neopower inventing the next fuel
17 cell battery system, Aculight, it's the world leader in
18 laser technology. You may have read about -- we're going
19 to develop this air-defense system for our civilian
20 aircraft; Sonosite -- just yesterday -- which is the
21 world's leader in the development of new, portable
22 ultrasound technology. Companies you haven't heard of yet,
23 which are small, but it's just an incredible stew of
24 innovative talent.

25 So this program, SBIR program, is incredibly

1 important to them, and I've seen it come to fruition in a
2 lot of different places.

3 But one of the things that has come about is this
4 cutting off of assistance to any of these companies that
5 have venture-capital backing, which many, many of them do.
6 This has caused great, great anxiety and grief in my
7 district, and I believe across the country. Because I have
8 found that there are literally scores of companies in my
9 district that clearly I think in anyone's estimation would
10 fit into the definition of a small business, both in spirit
11 and in capital, but do depend on venture-capital backing to
12 some degree. And as a result of a decision, I think, in
13 2002 by SBA, no longer at the moment would be eligible for
14 SBIR backing. And that has really stymied a whole host of
15 innovative talents from going forward with SBIR backing.

16 I've been active in Congress to try to change
17 this effort, sending letters to the SBA joined by a couple
18 dozen of my colleagues. I have inserted into the small
19 business reauthorization bill language in the pending bill
20 that would solve this problem. It would again make
21 eligible people who have VC backing for this incredibly
22 important seed capital. That's now in the bill.

23 The bill is sort of stymied. I don't know if
24 you've heard about this, but there's this jurisdictional
25 battle between committees that sometimes happens in

1 Congress. So the bill has not advanced, but language to do
2 this is in the bill currently, and I'm happy that it is.

3 But I would hope that you would as part of your
4 resource gathering would report back from the First
5 Congressional District that this is one incredibly valuable
6 resource available for innovation that is a tremendous
7 payoff for taxpayers.

8 I was at Sonosite, this company that does these
9 small ultrasound yesterday, and they noted that they had
10 added more employees in the last quarter than the Boeing
11 Corporation to this little small -- this small business.

12 This is where we're adding employment. And
13 innovation is where we really are; the key to American
14 international competitiveness is in innovation. We're not
15 going to compete successfully for low wages. We're going
16 to compete through innovation.

17 So, one, this is an incredibly important program,
18 but, two, you have very valuable companies that need this
19 seed capital who also have a VC capital associated with
20 them. Because frequently you'll have VC capital that's
21 dedicated to one proprietary project that attracted the VC
22 capital, but you've got another door opens up for new
23 innovation that the company may want to explore that the VC
24 backers may not be all that wild about because it may not
25 be that mature, and now we can't get SBIR backing because

1 this company is sort of on a blacklist. When you think
2 about it, this VC is kind of a blacklist for these
3 companies just because they've been quote tainted with some
4 VC capital.

5 So I think the goal of the SBIR program will be
6 fulfilled if we allow this to occur with some companies and
7 not put them on this blacklist of VC capital. And I can't
8 tell you how important this is to my constituents, and I
9 hope that you will report that back to D.C. And I'll
10 continue to fight that battle in the halls of Congress, and
11 if you beat us to the punch and fix it from a regulatory
12 standpoint, that would be great. But if not, we'll try to
13 do it in the halls of Congress.

14 So I want to thank you, and I wonder if you have
15 any questions that I could respond to?

16 MS. MARSHALL: It's very clear.

17 MS. CAVANAUGH: It's very clear.

18 MR. JORDAN: No. You were very clear.

19 MS. CAVANAUGH: Thank you for your testimony.

20 CONGRESSMAN INSLEE: Thanks so much. Good luck.

21 MS. CAVANAUGH: Thank you, Congressman.

22 Is Hugh Himmelreich present?

23 Our next speaker will be Stewart Parker
24 followed by Rick Shindell.

1 TESTIMONY BY MS. STEWART PARKER

2
3 Thank you, very much. I am Stewart Parker. I'm
4 the president and CEO of Targeted Genetics Corporation. We
5 also are a biotechnology company, started in 1992, went
6 public in 1994 and since our origination have boldly been
7 going where no man dares to go, developing new technology
8 that still is somewhat unproven.

9 Now, you've heard Dr. Faris's eloquent comments
10 and certainly Congressman Inslee, so I have good news: I'm
11 not going to use all my five minutes. I think my comments
12 would certainly echo theirs in entirety. Because I do want
13 to talk about the issue related to precluding venture-
14 capital backed and institutional investor-backed companies.
15 Just with a unique perspective because these SBIR grants
16 are indeed used for the seed capital that often allows you
17 to attract the quality investors that then can give you the
18 momentum you need to get new products on the market.

19 I have somewhat -- as I said -- of a unique
20 perspective because in 2001, I was very proud to be named
21 the Western Washington Small Business Person of the Year by
22 the SBA, and I'm very frustrated that probably right now
23 because of my shareholder makeup, I don't have access to
24 the SBIR grants anymore.

25 So I would just ask you to please think seriously

1 about comments that both Jack and Congressman Inslee have
2 made today. The December ruling was a -- very much a step
3 in the right direction, and we very much appreciated that,
4 and yet companies are still being turned down. So there
5 seems to be a lack of clarity about the consequences and
6 the details of the ruling.

7 I've also heard many of my colleagues who are
8 actually CEOs of publicly-traded companies who have still
9 been granted SBIR grants and yet have been advised by their
10 attorneys not to take that money yet because of the lack of
11 clarity related to their ability to determine whether their
12 institutional investor makeup is indeed US-based or
13 foreign-based. For example, Fidelity Investments, how do
14 you know the shareholders of Fidelity are all US-based or
15 predominately US-based?

16 So there are still some issues with clarity that
17 we would very much appreciate having solved. I think that
18 if we can work together to try to clarify this, that we
19 could continue as a biotechnology industry, which certainly
20 has its up and downs and struggles, to be able to take
21 advantage of this money and to be able to use it as seed
22 capital, and fund projects that sound like rocket science
23 early on, but, indeed, can create new therapeutic products
24 for diseases that can't be currently treated yet.

25 So thank you. I will stop here.

MS. CAVANAUGH: Thank you for your testimony,
Ms. Parker.

Does anyone on the panel have a question
they'd like to ask her?

MR. JORDAN: No. Thank you.

MS. CAVANAUGH: Okay.

Rick Shindell?

TESTIMONY BY MR. RICK SHINDELL

Hi. My name is Rick Shindell. I'm president of
Zyn Systems. We run the SBIR gateway, which is used by
over 4000 small businesses daily competing for SBIR funds,
and it is a pro bono, free service, no advertising, no --
it is internally funded, and we don't compete for SBIR
grants. So there's nothing for my company or myself to be
gained in what I'm going to tell you or talk to you about
today.

First of all, thank you very much for allowing us
this opportunity. Secondly -- and you don't need me to
defend you -- but since we do a lot of work on the Hill, we
do work for small businesses, we know that the SBA has --
is the only federal agency that has -- five years in a row
-- had their budgets cut by now over 36%, and yet we expect

1 you to maintain the same level of service that you've been
2 giving all along. So we -- many of us do realize that you
3 do have your problems in sometimes getting some things out
4 the door. And I'm sure -- well, we've already heard some
5 heat on that.

6 Now, I'd like to talk about the VC issue, the VC
7 eligibility issue. And for those of you who are speaking
8 in favor, I don't want to sound insulting at all. I'm
9 actually hopefully tossing out an Olive branch because we
10 have just heard a congressman come out and tell you that I
11 hope -- and he approached you very nicely -- that I hope
12 you address this properly, and, if not, we are probably
13 going to address it a different way in congress.

14 Well, when the SBA asked for comments on the
15 proposed changes, one of the comments that was very
16 disturbing to me came from, of all people, Nidia Valesquez,
17 Congresswoman from New York, who happens to be the ranking
18 member of the house Small Business Committee.

19 She reminded you that you work under their -- at
20 their pleasure. I'm paraphrasing that to some degree, but
21 a couple of comments that are germane to your rulemaking.
22 Valesquez goes on to say, Limiting the availability of
23 venture capital financing in order to level the playing
24 field is not a realistic proposal. Eventually, certain
25 businesses will be selected for Phase II commercialization

1 and others will not.

2 Well, you have heard so far this morning from the
3 biotech community. The biotech community is somewhat
4 unique in the SBIR program in that it deals predominately
5 with the NIH. And if we read the language in the SBIR
6 policy directive, we will see that there are guidelines for
7 awards; however, there's a little caveat to allow an
8 expansion of the award amounts. And the NIH is
9 consistently exceeding the award amount for Phase II, which
10 is supposed to be capped \$100 thousand. They're exceeding
11 that not by, maybe, going to \$1 million. We're seeing
12 Phase II awards, three, five, and \$8 million. Guess what?
13 This gets the attention of the VC community. This is not a
14 \$750 thousand or \$100 thousand award that would be kind of
15 nice for the biotechs, but \$100 thousand is not going to
16 make the difference between a biotech succeeding or not
17 succeeding.

18 Now, the biotech community -- and it's a great
19 community -- they keep telling us almost chapter and verse
20 from biotechnology industry organizations, 70% of our
21 respondents -- they don't tell you what number that is --
22 is 70% fifty? Is it a thousand? We don't know. We just
23 know 70%. I can tell you by looking through your own
24 comments right now, very heavily opposed to the issue of
25 allowing venture capital -- venture-capital owned and

1 controlled small businesses.

2 Now, I agree, venture capital is very important,
3 and we need to address that. However, venture capital
4 companies can own up to 49% right now. They can deal in
5 SBIR. They are not excluded whatsoever. And there are
6 other avenues -- what we have to worry about here is if we
7 grant them what they want -- the change in the language of
8 "individual," the change of the language in "affiliation,"
9 what is going to go ahead and -- what's going to go ahead
10 and govern, maybe, Boeing suddenly creating a venture
11 capital company to go ahead and take over some small
12 businesses, so they no longer have to deal with a small
13 business? It was one that they predominately owned through
14 one of their own VCs. We need protection to be able to
15 insure that these kind of abuses do not happen.

16 And lastly -- and I'll get out of your way -- I
17 deeply resent Congresswoman Valesquez telling you that
18 either you get them in or we'll fix it for you.

19 I think the SBA should do their job as looking --
20 as you're doing right now -- at looking at all the sides,
21 come up with your own decisions and make sure that your
22 supervisors, up above, the ones that are connected, that
23 have to pay heed to our congressionals, at least give the
24 congressionals the best that you have.

25 Thank you.

1 MS. CAVANAUGH: Thank you for your testimony.

2 Does anyone on the panel have a question for Mr. Shindell?

3 MR. JORDAN: No. I don't think so. Thank you.

4 MR. SHINDELL: Okay. Thank you.

5 MS. CAVANAUGH: Thank you.

6 The next speaker will be Catherine Innes
7 followed by Kathy Lester.

8
9
10 TESTIMONY BY MS. CATHERINE INNES

11
12 Thank you for the opportunity to provide
13 testimony today.

14 My name is Catherine Innes, and I am the Director
15 of Policy and Strategic Initiatives for UW TechTransfer,
16 the technology commercialization office at the University
17 of Washington.

18 I would like to thank the SBA and the members of
19 the hearing panel for conducting these public hearings so
20 that interested entities may comment on SBA's size
21 standards.

22 My comments today will focus on the need to allow
23 participation of businesses that are majority-owned by
24 venture-capital companies in the SBIR Program. This is an
25 important issue for the University of Washington because

1 many small businesses are formed around technologies
2 arising from university research, and access to early-stage
3 financing is vital to their success.

4 As you are likely aware, a great deal of cutting-
5 edge research occurs at our nation's universities, and the
6 University of Washington is no exception. The University
7 of Washington receives nearly \$1 billion annually from
8 external sources to support our research in medicine,
9 engineering and physical sciences. Hundreds of innovations
10 from University of Washington have been developed by
11 commercial partners. This activity has created a positive
12 impact for society through the development of a leading
13 Hepatitis B vaccine, a treatment for hemophilia, numerous
14 medical diagnostic tools, instructional software, a drug
15 interaction database, and leading software for proteomic
16 and genomic research, among many other innovations.

17 The technologies that arise from the University
18 of Washington are exciting and promising, but at a very
19 early stage of development. For a technology to reach the
20 marketplace, significant resources for applied research and
21 development are required. This usually occurs through a
22 transfer of the technology to a commercial partner who is
23 willing and able to apply the necessary resources; often
24 this is a small start-up enterprise that will require many
25 years of investment before products can reach the market.

1 There is a critical need for early-stage capital
2 investment for technology-intensive small companies. For
3 example, in biotechnology it is estimated it can take as
4 much as 600 to 800 million in 12 years to develop a new
5 compound into a pharmaceutical product, conduct clinical
6 testing, and gain the approval of the FDA to market the
7 drug. Without venture capital, many important therapies
8 may never be developed since this is a new drug development
9 -- since -- excuse me -- since most of the new drug
10 development occurs in small research-intensive companies
11 before it is transferred to larger, fully-integrated
12 pharmaceutical companies for final marketing and sale.

13 Many small, emerging high tech and life science
14 companies look both to venture capital and SBIR as critical
15 elements for their development and ultimate success. SBIR
16 funding can help reduce private investment risk and help
17 prepare early-stage technologies for market. Similarly in
18 information technology businesses, SBIR grants provide
19 essential support for feasibility and proof of concept
20 testing. Under the current rules, a business concern may
21 be eligible for an SBIR award only if the firm has fewer
22 than 500 employees -- as many of my previous speakers have
23 mentioned -- and is at least 51% controlled by individuals
24 who are residents of the United States. It has been
25 clarified that these individuals cannot be the venture

capital companies or other business entities.

But we are concerned that if VCCs are unable to participate in the SBIR Program, a valuable tool for these early-stage, technology-driven businesses will be eliminated; and this will have a significant negative impact on both the creation of small businesses in the US and effective university-to-industry technology transfer. In Washington State nearly 20% of the 97 SBIR grant recipients between 1995 and 2000 had private equity investments, became public, were acquired by larger entities, or sought majority venture backing. These firms all met the SBA size standards, but under the current rules, their financial backing would disqualify them from the SBIR program.

The mission of UW TechTransfer is to extend the impact of University of Washington research through the creation of partnerships that encourage investment in innovation. For the University of Washington to achieve this objective, we must be able to partner with small businesses that can obtain the financing to fund ongoing research and development. The SBIR program is a vital component in this process, and we urge the SBA to revise the eligibility requirements for the SBIR program to allow small, venture-backed businesses to participate in the program. This is an important element of successful

1 university technology transfer, and we believe the program
2 should consider awards to small businesses that have
3 successfully attracted outside investment.

4 Thank you, again, for this opportunity.

5 MS. CAVANAUGH: Thank you for your comments,
6 Ms. Innes.

7 Does anyone on the panel have a question for her?

8 Thank you.

9 Our next speaker is Kathy Lester.

10
11
12 TESTIMONY BY MS. KATHY LESTER

13
14 Hi. My name is Kathy Lester, and I am president
15 of Earthworks Environmental, from Whidbey Island,
16 Washington.

17 I have been in business for 12 years. I want to
18 first provide some comments and suggestions on issues that
19 are important to me.

20 My business falls under the Environmental
21 Remediation Service size standard of 500 employees, with
22 this is an exception -- which is an exception to the
23 remediation size standard of \$12 million. When my business
24 was doing well, I grossed \$260,000 with three to four
25 employees.

1 In today's world a very small company may be
2 capable of making a great deal of money. If a business can
3 support 100 employees, you're not really a small business.

4 I suggest receipt-based size standard of six
5 million or less, and I'm speaking from the remediation
6 world where I deal with a lot of businesses that are --
7 small businesses, 500 employees or less -- and these
8 companies are making 25, 30, \$50 million.

9 And the size standard should have no exceptions.
10 If you have to go with employees-base size standard, a
11 hundred or less is at least closer to a small business than
12 500. Fifty or less would be more realistic.

13 All employees, part-time, temporary, and contract
14 should be determined when determining size.

15 The size standard should apply to all including
16 federal procurement.

17 Affiliations should include all affiliate
18 employees.

19 When teaming, each small business should count
20 employees separate to encourage teaming together. If a
21 small business teams with another business and this
22 business has a number of employees or a wage base that is
23 greater than the size standard, the team should not be
24 qualified to bid on small business set-asides. This needs
25 to be enforced by contract personnel. Not this, It's not

1 my job to verify. They checked the box. Small business
2 must be required to provide evidence that they and their
3 teaming partners are in fact small businesses or change the
4 size protest requirements to include any business that is
5 financially affected by the award of these contract.

6 Grandfathering. Small businesses that may be
7 affected by the changes should be allowed to work through
8 the end of their current contract.

9 The size standard would not be complicated if you
10 remove the exceptions and stop multiple-award contract and
11 bundling. I still don't understand the difference between
12 these two contracts. A contracting officers has told me
13 from EFA Northwest that bundling only applies to GSA
14 contracts, and multiple-award contracts are different. I
15 still don't understand why they are different.

16 I suggest to even out the field for small and
17 extra small businesses like myself on large contracts, like
18 multiple-award contracts, small businesses be required to
19 have a small business subcontracting plan just like the
20 large businesses are required, so that they will hire small
21 businesses like mine. More examples would be helpful and
22 having an SBA person as these contracting agencies, such as
23 EFA Northwest, who would return phone calls and are able to
24 answer my questions, like what is the difference between
25 multiple-award contracts and bundling contracts, would also

1 be helpful.

2 And last, I wanted to inform you that this
3 wonderful dream of small businesses teaming is really a
4 joke. In my world, small businesses don't want to team
5 with another small business. They want to team with a
6 large business so they can compete with multiple-award
7 contracts. We are all competing for every little scrap of
8 work. Really, it is like asking Wal-Mart and Kmart to team
9 together for the sake of the buying public. Do you think
10 that will ever happen?

11 I once subcontracted for Foster Wheeler, a big
12 business. We teamed together for a \$100 million contract.
13 We won. I was so excited, my first big contract. A month
14 later, I found out that all the work I would have done
15 under this contract was given to small businesses under a
16 multiple-award contract. I was kicked to the curb.
17 Superfund work that I had performed on Whidbey for seven
18 years -- for the last seven years was given to the small
19 business teaming with Shaw Environmental, who has 20,000
20 employees.

21 Thank you.

22 MS. CAVANAUGH: Thank you for your comments.
23 Does anyone on the panel have questions for Ms. Lester?

24 We'll hear from Hugh Brown and then take a ten-
25 minute break when he is finished.

TESTIMONY OF MR. HUGH BROWN

Good morning. Thank you for the opportunity to speak before you today.

I believe in small business as the true engine of job growth and opportunity in this country, and I believe in the 8(a) program that provides a means for minority and small businesses to succeed and grow, creating more jobs and more commerce. It is a cycle of success we should be encouraging.

I began my career in the US Air Force, and founded my business, BAMSI, Incorporated, an acronym for Brown and Associates Management Services, Incorporated, a full-service engineering and technical services company, out of my home and my garage. That's where I worked on my first government contract for Patrick Air Force Base. At our largest point, BAMSI employed over 2,200 people in 11 states, with annual sales of \$90 million. We had 18 consecutive profitable years. None of this could have happened with the 8(a) program.

As a result of that work, I was fortunate enough to win recognition as SBA's Small Business Person of the Year for 1985, and as Regional Minority Small Business Person of the Year for the Atlanta region. I also received the US Small Business Administration's 8(a) Graduate of the

1 Year Award in 1991 from President Bush. That's President
2 Bush, senior.

3 I retired as CEO of BAMSI in 1996 and am
4 currently a member of the Board of Directors of SunTrust
5 Bank of Orlando, Blue Cross, Blue Shield --

6 MS. CAVANAUGH: Excuse me, Mr. Brown.

7 MR. BROWN: Yes?

8 MS. CAVANAUGH: I'm sorry, but are you going to
9 be addressing the size standard issues here?

10 MR. BROWN: Yes, I am. I'm getting to that.

11 MS. CAVANAUGH: Okay. Thank you.

12 MR. BROWN: Uh-huh.

13 That's why I appreciate the opportunity to
14 speak before you today about the SBA's Advanced Notice of
15 Proposed Rulemaking: because the SBA and the 8(a) program
16 have had such an impact on my life and have allowed me, and
17 many others, the opportunity to create jobs, build a
18 business, and give back to the community in a very real and
19 tangible way.

20 All that said, the 8(a) program to attain its
21 full potential, it must not have rules which penalize small
22 businesses while they are growing and transitioning from
23 8(a) status to non-8(a) status. If the rules penalize
24 these businesses during this growth and transition period,
25 then all the work and investment that has led these

1 businesses to that successful point could be wasted.

2 So I speak before you today less concerned with
3 precisely what the size standards are, and more concerned
4 with how any new standards will permit and encourage the
5 period of growth and transition, something with which I
6 have first-hand experience. Based on that experience, I
7 urge the SBA to adopt three core principles:

8 One, create separate size standards for federal
9 government contract opportunities in order to allow room
10 for continued business growth;

11 Two, create tiered standards of small businesses
12 that separate the growing small business from the very
13 small, small business; and

14 Three, and most important, include in any new
15 size standard a "grandfathering" approach for existing
16 small businesses that might be impacted by the new
17 standards.

18 I can tell you that doing business with the
19 federal government is very different from the commercial
20 market place. As a result the SBA should put in place size
21 standards specifically tailored to that federal market
22 place. Many of the service contracts won by BAMSI
23 compelled us to hire additional employees to make sure we
24 could meet all contract performance standards. But this
25 forced growth also jeopardized the small business status

1 before the business was fully prepared to compete
2 effectively at the next level. It created a type of
3 "Catch-22" in that we were compelled to get bigger to meet
4 contractual requirements, but in so doing, our eligibility
5 to retain the contract was put at risk.

6 Given these unique factors that are not present
7 in the commercial market place, I believe that establishing
8 separate size standards for the specific federal government
9 opportunities would allow a company to take advantage of
10 federal opportunities without imperiling their long-term
11 business strategy. The size standard should be structured
12 in a way that provides the contractor with ample room to
13 grow before exceeding its size standard. I thus strongly
14 urge the SBA to create separate size standards specifically
15 for the federal contracts that are distinct from the
16 commercial market place. In addition, experience tells me
17 that size standards should allow for a larger number of
18 employees in service-intensive categories. A detailed
19 analysis should be done of the current size standards to
20 ensure that the separate standards are appropriate for each
21 industry segment.

22 Part of the struggle I faced as a successful and
23 growing small business was that the potential impact of
24 outgrowing the size standard and graduating prematurely
25 from being small. Graduation created a critical need to

1 find alternative opportunities because BAMSI lost its small
2 classification, neither the government nor prime
3 contractors could earn small business credit of engaging
4 BAMSI. Indeed, once we lost our classification, perversely
5 both government and prime contractors actually had an
6 incentive to replace us with smaller providers even though
7 we [sic] were completely satisfied with our work
8 performance.

9 To account for this reality, I believe it makes
10 sense to have at least two separate categories -- one for
11 growing small business for those companies that operate in
12 growth areas such as maintenance and services areas, and a
13 second, separate category for small businesses that are not
14 in growth industries.

15 MS. CAVANAUGH: Thank you for your comments,
16 Mr. Brown.

17 Does anyone on the panel have a question
18 they'd like to ask him?

19 MR. JORDAN: No. Thank you.

20 MS. MARSHALL: We'll finish reading him.

21 MS. CAVANAUGH: And we'll make certain that your
22 written testimony is included in the record. Thank you for
23 your comments.

24 When we come back from the break, the first
25 speaker will be John Bosma followed by Ed Tonkin.

1 I would ask that you return promptly at a quarter
2 to ten.

3 [Brief recess taken.]

4 MS. CAVANAUGH: I'd like to readjourn [sic] the
5 hearing. Our next speaker will be John Bosma.

6
7 TESTIMONY OF MR. JOHN BOSMA

8
9 Thank you, first of all, for the opportunity to
10 be able to speak here today. My name is John Bosma, and
11 I'm with Bosma Research International. I've been in small
12 business for the last 25 years. I've often said over the
13 years that I've had a dual life or our company has had a
14 dual life. On the money-grabbing-capitalistic-pig side of
15 things, we've worked with public companies, and most of
16 that work has been with Fortune 100 and Fortune 500
17 companies. Anywhere between 40 and 60% of our work,
18 though, has been in the government nonprofit sector. And
19 while a lot of our work has been with state and local
20 governments and those types of entities, the bulk of that
21 has always been with the federal government, working on --
22 on usually multi-year and large-scale evaluation projects
23 and stuff like that.

24 At the height of my business, I had 15 employees
25 working for me full time, plus another five or so part-time

1 employees. As things have changed over the years and we're
2 doing a lot less of the paper-based, mail-survey kind of
3 stuff, and things have become more internet related --
4 you're no longer mailing out a million packets a year --
5 and so we've cut down staff. I'm also at the age where I
6 want to kind of be slowing and focusing on quality-of-life
7 issues. So now I'm down to five employees, and that will
8 stay that.

9 What I'd like to specifically address here today
10 is -- are two different things. First I'd like to address
11 the SBA's failure to enforce and monitor the large
12 companies that are fraudulently misrepresenting
13 themselves --

14 MS. MARSHALL: Wait a minute, Mr. Bosma. Your
15 mike's not on.

16 MR. HUTCHINS: I'll check your mike.

17 MR. BOSMA: [Testimony continued.] First of all
18 I'd like to address the SBA's failure to enforce and
19 monitor the large companies that are fraudulently
20 representing themselves as a small businesses. This isn't
21 a new problem. It has been dated back to the mid-'90s by
22 any number of studies and reports. Billions of small
23 business -- or monies targeted for small business set-
24 asides have gone to large businesses and large companies.
25 I've also read, too -- and I'm stating that just simply as

1 something I've read -- that one of the reasons cited by the
2 SBA for this problem has been errors in the database. If
3 that is, indeed, a valid claim or a claim that the SBA has
4 been using in the past ten years, I, frankly, don't buy
5 that.

6 The second thing I would like to address today is
7 the grandfathering alternative under consideration. What
8 we're talking about here with companies -- large companies
9 misrepresenting themselves as small businesses is not some
10 -- a result of accidental error as I often I refer to them
11 as "Blond Attacks." These are intentional acts where
12 companies know what they're doing is wrong and getting by
13 with it.

14 My understanding of Section 16 (b) of the Small
15 Business Act is that -- that doing this type of thing is a
16 felony with up to a ten-year prison term.

17 In conclusion, I don't think it's hard to
18 differentiate between what a small business is and what a
19 large business is. A small business as defined is one in
20 which -- which is independently owned and operated and not
21 dominant in its field of operation.

22 I feel quite strongly that it should be further
23 defined and delineated by the number of employees. I think
24 50 would be and is an adequate number. If you start
25 getting up to a hundred employees, I don't think you're

1 really in the realm of a small business.

2 If you look in terms of what another gentleman
3 said here earlier today what the average size of a business
4 is in the country, I think 50 is a good standard.

5 I think it also should perhaps be an and/or-type
6 of situation also determined by receipts. A company making
7 \$50 million a year in receipts, again, is not a small
8 business in my mind and my experience and stuff. so I would
9 strongly suggest a number of employees at 50 and then
10 receipts maybe somewhere in the area of 5 or \$6 million.

11 Now, I think also there are probable exceptions
12 which should be taken into account. We've done a lot of
13 work over the years, for example, with the US Department of
14 Education, and many of their research projects are best
15 suited for academic environments and situations. And I
16 think they should have the right in that kind of situation
17 to say, Hey, this is a project that's best suited to be
18 done within some sort of an academic environment within a
19 larger university setting. I don't think that kind of
20 thing is improper or wrong at all.

21 The second thing I'd like to say in conclusion is
22 that I've always been an advocate of the SBA, and, in fact,
23 in the late eighties actually took out an SBA-insured loan,
24 and it was something I needed and wanted very much at the
25 time.

1 On the other hand, I have to say that I'm quite
2 angry and frustrated at the way things have been going
3 here. As a small business we've been -- it's hard and it's
4 difficult and challenging at best, if you go into the bank
5 and you basically have to put your entire life on the line
6 and up as collateral to get a bank loan for a line of
7 credit. So you're already clearly at a disadvantage on
8 many of those fronts. And then to have the game rules
9 changed so you're being jacked over by, you know, the
10 people who are supposed to be protecting you, that's adding
11 further insult to injury.

12 Anyway, Thank you very much.

13 MS. CAVANAUGH: Thank you, Mr. Bosma.

14 Does anyone on the panel have a question for
15 him?

16 MR. JORDAN: No.

17 MS. CAVANAUGH: Our next speaker will be
18 Ed Tonkin followed by Ralph Iberra.

19
20
21 TESTIMONY OF MR. EDWARD TONKIN
22

23 Well, good morning to you. My name is Ed Tonkin,
24 I'm the chairman of the Regulatory Affairs Committee of the
25 National Auto Dealers Association. We'll just abbreviate

1 that to NADA, and I'm also a franchise auto dealer in
2 Portland, Oregon, but I am a Husky.

3 The National Auto Dealers Association represents
4 20,000 franchise auto dealer and truck dealerships that
5 sell new and used motor vehicles, engage in service,
6 repair, and parts sales, and together employ over 1,300,000
7 people nationwide.

8 In 2004 the SBA proposed to replace many of its
9 gross receipts small business size standards with ones
10 based on number of employees in a firm. The objective was
11 to reduce and simplify the number of size standards levels
12 and help reduce the need to periodically update and index
13 for inflation the standards, and NADA is in support of this
14 approach.

15 The current New Car Dealers financial assistance
16 size standard is 24 and a half million dollars in annual
17 gross receipts. NADA also represents some 1900 truck
18 dealers with a 100-employee standard. Both sectors have a
19 500-employee size standard for federal government
20 procurement purposes.

21 Now, a little history, in 1980 and '82, SBA
22 proposed a 50-employee size standard for New Car Dealers,
23 anticipating that between 85 and 89% of the sector would
24 qualify. The employee-based standard was never finalized
25 back then. In '92, the SBA established a gross receipts

1 New Car Dealer size standard of \$17 million, anticipating
2 that about 83% of the sector would be covered. Since then,
3 the standard has been periodically adjusted to the existing
4 24 and a half million dollars.

5 Recent data in 2004 indicate that only some 41%
6 of dealers, which accounts for only 17% of industry sales
7 qualify for that standard of 24 and a half million. In
8 2004 the average New Car Dealer employed 52 people, with
9 55% employing 50 or less, and 94% employing 100 or less.

10 Now, NADA has given written submission the past
11 couple years, and we continue to support a New Car Dealer
12 financial assistance size standard of 100. It served the
13 truck dealers very well since '86, and it's provided
14 certainty, and it's also alleviated the burden of you
15 having to index it over time.

16 Moving from annual gross receipts to a size
17 standard will achieve your goal, the SBA's goal of
18 simplification, at least, for the dealers. It will
19 typically be easier to calculate the number of employees
20 versus gross receipts. Gross-receipts change is much
21 greater than the employ size of a firm, and, again, it will
22 take some burden off of you.

23 We don't ever think that car or truck dealerships
24 are going artificially reduce the number of employees for
25 12 months to qualify for this, but at times of economic

1 hardship, it's conceivable that a firm would shrink below
2 that size and require some assistance, which would be the
3 idea.

4 So on behalf of NADA, I do urge you to adopt the
5 100-employee New Car Dealer financial assistance size
6 standard. This will help achieve your historic 80%
7 qualification rate, which is discussed in our comments, and
8 it will recognize the high-gross sales but very low net-
9 profit nature of new vehicle retailing. You know, it's one
10 of the smallest net profit industries that exists. People
11 think it's exorbitant, but it's actually on average less
12 than 1%, which is -- it's a volume business.

13 So we urge you to retain the 100 employee
14 standard for truck dealers, and also, that covers about 80%
15 of the sector.

16 So we appreciate everything you're doing, think
17 you're on the right track, want to give you a pat on the
18 back, and I'd open it up to any questions you may have.

19 MS. MARSHALL: No. Very clear.

20 MR. JORDAN: No.

21 MS. CAVANAUGH: Okay.

22 MR. TONKIN: Do any of you need to buy a car or
23 truck today?

24 MS. MARSHALL: What are we talk'n?

25 MR. TONKIN: Thank you very much. I appreciate

1 it.

2 MS. CAVANAUGH: Thank you for your comments,
3 Mr. Tonkin.

4 Ralph Iberra.

5 MR. IBERRA: Buenos dias.

6 MS. MARSHALL: Buenos dias.

7
8
9 TESTIMONY OF MR. RALPH IBERRA

10
11 It's good of you to come all the way to
12 Washington State, the other Washington, to start your tour,
13 and welcome, bien venidos.

14 I'm going to touch on essentially three areas for
15 you specific to size standards.

16 First of all I want to call your attention to a
17 submission from the vice president of the National Minority
18 Supplier Development Council, Steven Sims. The NMSDC is an
19 organization of 39 councils across the country that
20 represents nearly 17,000 certified minority businesses,
21 both male and female, of all races and ethnicities.

22 Of those 39 councils, there is a local council,
23 the Northwest Council. There also happens to be three
24 other councils along the West Coast: Northern California,
25 Southern California, San Diego, and that happens to fall

1 within my jurisdiction as Pacific-Region Chair. I'm very
2 proud to say I have a regional chair position with the
3 NMSDC. So I work with better than about 2500 minority
4 businesses, certified minority businesses.

5 But on March 30th, there was a submission by
6 Steven Sims of the NMSDC, where he outlined the position of
7 the NMSDC, and the submission was addressed to Mr. Gary
8 Jackson, SBA Assistant Administrator for Size Standards.

9 And I'll just call out a couple of areas specific
10 to what the NMSDC believes would be a good way to look at
11 where you go from here.

12 First of all, with respect to the role of venture
13 capital financing on SBIR projects during Phase I and II,
14 we believe that great care needs to be taken so that small
15 and minority-owned businesses are not manipulated simply
16 because of the way the capital markets operate.

17 Oftentimes, you may have a small minority business who has
18 an innovative product and goes after an SBIR funding of
19 some type, and they may not necessarily have the business
20 acumen to really understand when perhaps they're putting
21 themselves under jeopardy by accepting some VC funding. So
22 we would really encourage you to take great care and be
23 very specific as to what the parameters are so that the
24 small and minority businesses do not find themselves at a
25 disadvantage when they're negotiating the valuation and

1 ultimately lose their small business status or are in some
2 way compromised. So I call your attention to that.

3 I also will call your attention to the multi-
4 tiered size standard approach that is being promoted. And
5 that multi-tiered approach is very simple. It is receipt-
6 based, and it is a simple formula. And I do have an
7 illustration that I'll talk about in just a second.
8 Essentially, it takes the top five corporations of a
9 particular industry sector. It takes 10% of that as a
10 starting point and then creates a multi-tiered approach, up
11 to five tiers if necessary. So that it really looks at
12 having a solution that's adaptable to an industry, because
13 industry sectors are dynamic; they're not static. And
14 unfortunately, when you have a single-tier size standard,
15 as soon as it's published, quite frankly, it could become
16 very much obsolete. Because there's been so many
17 industries that have expanded, have contracted, have moved
18 on, have been dealt -- have been buffeted by the dynamics
19 of globalization: You've heard from the biotech industry.
20 You've heard from the auto industry. You've heard from a
21 lot of industries that most definitely are undergoing a
22 series of dramatic changes.

23 So simplifying a formula based on receipts with a
24 tie-in to the number of employees -- because that's part of
25 it as well -- we believe makes a lot of sense, will

1 simplify it, make it easier for folks out there that rely
2 on the SBA for all the various programs, to understand how
3 it all works for their benefit, because, essentially, it's
4 all about delivering service to the customer. I know that
5 the SBA is very much dedicated to providing service, but at
6 the same time the customers -- those people, the
7 recipients, the small businesses -- need to have an easier,
8 better way to be able to figure out where they fit.

9 So I would encourage you to please review this
10 material.

11 And then, lastly, I would say to you that there
12 are other government agencies that do use a multi-tiered
13 approach. So it would be good to research where perhaps
14 that's been appropriate, and that that would make sense for
15 the SBA as it goes about determining how to best work
16 through this process.

17 And I know you will be hearing a lot of
18 commentary, and I thank you very much for your time and
19 energy and effort.

20 MS. CAVANAUGH: Thank you, Mr. Iberra.

21 Does anyone on the panel have a question for
22 him?

23 MR. JORDAN: No. Thank you.

24 MS. CAVANAUGH: Okay.

25 Our next speaker will be Jonathan Viars

1 followed by Regina Glenn.

2 Is Regina Glenn here?

3 UNIDENTIFIED SPEAKER: She stepped out.

4 MS. CAVANAUGH: Okay.

5 UNIDENTIFIED SPEAKER: There she is.

6 MS. GLENN: Thank you. Thank you. Regina Glenn.

7
8
9 TESTIMONY OF MS. REGINA GLENN

10
11 I'm the president of Pacific Communications
12 Consultants, and you have my written statement, and I will
13 highlight it for you.

14 I have been an owner for over 25 years, pleased
15 to have been honored by the SBA as a woman minority
16 advocate or "champion," as they call it, for 2005 and 2004.
17 I mentioned that to say a background in advocacy is what
18 I've had for over 30 years.

19 I have two points and 13 recommendations.

20 Point one, a fundamental issue for small
21 businesses is ensuring access to federal and private
22 marketplaces by expanding opportunities to compete.
23 Procurement reform must maintain federal contracting as a
24 viable opportunity for small businesses. Legislative and
25 regulatory measures to preserve and expand both prime

1 contracting and subcontracting opportunities are essential.

2 The second point, advocates for small, women,
3 minority-owned businesses must fight to increase
4 opportunities for small businesses seeking private, local,
5 state, and federal contracts. This means correcting bad
6 policies and enforcing the rules that exist that might be
7 ignored.

8 Four facts, tens of millions of dollars are being
9 spent by the SBA with large firms. As said earlier, and I
10 won't repeat, over 5,000 comments came from small
11 businesses asking us to disallow huge, multinational
12 corporations to continue receiving the very large billion-
13 dollar governmental contracts.

14 Second, SBA Grandfathering proposal would allow
15 corporate giants in the United States and Europe to keep
16 their small business contracts up to five more years. As
17 of March 31st, with two business days remaining in the
18 comment period, SBA received about 6,000 comments in
19 opposition to this grandfathering.

20 In December of 2004, as you know -- and I had
21 clarification this morning -- one of the proposals would
22 allow big corporations to keep their existing small
23 businesses, that's even if the size standards were reduced.
24 It was good information to hear earlier that these are
25 other proposals that you're getting feedback on, but that

1 was an issue.

2 I will skip by the facts because you know the
3 facts. You've heard them time and time again. I want to
4 get to the recommendations.

5 Number one, require SBA and the Justice
6 Department to properly investigate fraud and
7 misrepresentation in small business contracting.

8 Two, return the definition of "small business"
9 back to 100 employees. As you know, 98% of all US firms
10 have less than 100 employees and 89% less than 20.

11 Number three, eliminate the policy enacted by SBA
12 that allows large businesses to acquire small businesses
13 and retain a small business status for federal contracts
14 and subcontracts.

15 That is the biggest rub: large business gets
16 small business, retain the small business status. We can
17 never compete against that.

18 When a large business buys a small business, the
19 small business should no longer be considered a small
20 business for government contracts or subcontracts. Get out
21 there and compete with big colleagues that you have.

22 Number four, enforce liquidated damages, and all
23 other existing federal laws for noncompliance with small
24 business goals for prime contractors. The law currently
25 requires prime contractors to pay liquidated damages for

1 failure to make a good-faith effort to reach their small
2 business subcontracting goal.

3 Now, this has never been enforced. As a result,
4 many prime contractors never achieve the small business
5 goals stated in their prime contracts. Again, this exists,
6 but it hasn't been enforced. Remove all exemptions to the
7 100,000 small business set aside.

8 Number six, eliminate the Comprehensive Test
9 Program. This allows major prime contractors to avoid --
10 30 seconds -- to avoid complying with their small business
11 goals.

12 The remaining five tell you to look at those
13 legal actions that are there for you. They are written in
14 the record. I appreciate the extension that we were
15 allowed to give this feedback to you today, and I
16 particularly appreciate you allowing me to make these
17 comments as I have to go down to Olympia. Thank you so
18 very much.

19 MS. CAVANAUGH: Thank you for your comments.
20 Does anyone on the panel have a question for Ms. Glenn?

21 MR. JORDAN: Yes, I do, Ms. Glenn, please.

22 MS. GLENN: Yes.

23 MR. JORDAN: Large businesses can purchase a
24 small business and retain -- we made a change to that last
25 year. I forget exactly when it took effect. I think it

1 was December 21st. Don't hold me to it. The rule was
2 published in June. I don't know. When a contract is
3 novated --

4 MS. GLENN: Yes.

5 MR. JORDAN: -- as a result of a purchase, the
6 contractor must recertify now. And if they're not "small,"
7 they can't qualify as small. They can still have the
8 contract, but they can't be counted as a small business any
9 longer.

10 MS. GLENN: So the -- now, that hasn't trickled
11 down with all the definitions and explanations -- because
12 that has been one of the --

13 MR. JORDAN: It may not be in the FAR yet. I
14 don't know how fast it takes to get into the FAR.

15 MS. GLENN: That's good to know --

16 MR. JORDAN: It's in the Small Business "Regs" --

17 MS. GLENN: -- that's very good to know.

18 MR. JORDAN: -- it may even be in Part 124. I'm
19 not sure, because I don't work with that.

20 MS. GLENN: For reference to go back, what should
21 I look up?

22 MR. JORDAN: You go to the SBA website -- just
23 the main SBA website, type, slash, size --

24 MS. GLENN: Well, I know -- uh-huh. I have that
25 part, but --

1 MR. JORDAN: Okay. Go to our "What's new" page.

2 MS. GLENN: Okay.

3 MR. JORDAN: Click on "What's new in size
4 standards," and you'll see it on there.

5 About the Novation Rule --

6 MS. GLENN: Uh-huh.

7 MR. JORDAN: It actually came out in May or June,
8 but there was a six-month delay for that because of so many
9 contracts in flux and everything else.

10 MS. GLENN: So the corporation that had it, they
11 will retain it --

12 MR. JORDAN: Well, they --

13 MS. GLENN: -- but for the --

14 MR. JORDAN: -- they can retain the contracts --

15 MS. GLENN: -- but for the --

16 MR. JORDAN: -- but they can no longer be counted
17 as a small business.

18 MS. GLENN: Now, that's excellent news to hear.

19 MR. JORDAN: Yeah.

20 MS. GLENN: -- because that was extremely --

21 MR. JORDAN: -- yeah, that was -- you'll find
22 that on there.

23 MS. GLENN: Now, that's one to salute and put on
24 your website on the front end, and I thank you very much.

25 MR. JORDAN: Well, at one time, it was at the top

1 of the page, but we keep moving it down --

2 MS. GLENN: Yeah. Get it back up.

3 MR. JORDAN: -- because we had to make space for
4 the proposed rules and advanced notice of proposed rules --

5 MS. GLENN: Those are the kinds of successes that
6 are good to hear. That's a beginning, because that was --
7 but it's called "Novation Rules"?

8 MR. JORDAN: Well, it's a "novation" because of
9 a -- you know --

10 MS. GLENN: A company, right --

11 MR. JORDAN: -- it was bought by a big company.

12 MS. GLENN: Right. Yeah. Thank you very much.

13 MR. JORDAN: Now, the other -- you mentioned that
14 SBA proposed something. I missed what you were talking
15 about this morning.

16 MS. GLENN: The which? The --

17 MR. JORDAN: To which you were referring about
18 SBA proposing that a large business could retain its small
19 business status.

20 MS. GLENN: Uh-huh. This is when I was
21 mentioning the -- the -- well, that's what you were just
22 telling me about. That was the most important one.

23 MR. JORDAN: Were you talking about --

24 MS. GLENN: Eliminate the policy enacted by SBA
25 that allows large business to acquire small businesses and

1 retain small business status --

2 MR. JORDAN: Well, I think we've taken care of
3 that.

4 MS. GLENN: -- for federal contracts.

5 MR. JORDAN: You can double-check.

6 MS. GLENN: That's what you just said on that.

7 MR. JORDAN: Correct me if I'm wrong.

8 MS. GLENN: And then the -- I do ask you to look
9 at to the other --

10 MR. JORDAN: It was earlier than that. It was
11 earlier than that when you said something about "SBA
12 proposed." I think you may have been referring to
13 Grandfathering?

14 MS. GLENN: Yeah. That was the -- excuse me --
15 you had -- to properly investigate fraud, definition of
16 100, allow that; liquidated damages, and then --

17 MR. JORDAN: I thought you were alluding to SBAs
18 having proposed something about allowing a business to --
19 that would be Grandfathered -- for a large business to
20 retain small business status, but I wasn't sure that's to
21 what you were referring.

22 MS. GLENN: This Grandfather -- oh, I'm sorry --

23 MR. JORDAN: I thought we qualified that
24 earlier --

25 MS. GLENN: Excuse me, it was number three: The

1 long-established federal law mandates that 23% of the
2 government contracts go to small business, and then I said,
3 This Grandfathering proposal serves big businesses'
4 interests at the expense of the small business.

5 MR. JORDAN: All right.

6 MS. GLENN: That's the one --

7 MR. JORDAN: I think that's what -- I thought
8 that was what you were referring to.

9 MS. GLENN: Yes. That's correct. That was the
10 third one.

11 MR. JORDAN: Perhaps -- I don't know if you were
12 here earlier --

13 MS. GLENN: I heard you tell the gentleman --

14 MR. JORDAN: -- or I wasn't clear about, but SBA
15 hasn't proposed that.

16 MS. GLENN: Right. There's something in your
17 language that makes it appear, but I heard you tell the
18 gentleman that --

19 MR. JORDAN: Yeah.

20 MS. GLENN: -- that was some feedback that came
21 and you're getting feedback about --

22 MR. JORDAN: We had a proposed --

23 MS. GLENN: -- of what we feel about that.

24 MR. JORDAN: -- rule last year --

25 MS. GLENN: Yeah.

1 MR. JORDAN: -- to modify small business size
2 standards. There were so many comments that brought up at
3 least ten other major issues, and that's what we're
4 discussing this morning, one of which was Grandfathering.

5 MS. GLENN: Yes.

6 MR. JORDAN: Because enough people brought it up,
7 we said, We want more information from the public on that.
8 That's all. SBA hasn't proposed it. We just want to know
9 if the public wants to support it or not. But there were
10 enough people who supported it we felt that we should at
11 least get the feedback, and that's all.

12 MS. GLENN: I appreciate that.

13 MR. JORDAN: And we tried to make that clear in
14 the Advanced Notice of Proposed Rulemaking also.

15 MS. GLENN: Well, one question I just had, when
16 we list recommendations, will we ever get any feedback --
17 to get this one-on-one is phenomenal, generally you're here
18 and you leave. There are other points, perhaps will people
19 look at these statements and --

20 MR. JORDAN: We're going to look at every single
21 one of them --

22 MS. GLENN: -- respond to them. Because they're
23 outlined --

24 MR. JORDAN: -- in the transcript.

25 MS. GLENN: -- as succinctly as possible.

1 MR. JORDAN: Yes.

2 MS. GLENN: Thank you so much.

3 MR. JORDAN: Thank you for coming.

4 MS. GLENN: My pleasure.

5 MS. CAVANAUGH: Is Jonathan Viars present?

6 MR. VIARS: I am, but I'm not prepared to speak.

7 MS. CAVANAUGH: All right.

8 Our next speaker will be Stan Kawamoto,
9 followed by Conor Coughlin.
10
11

12 TESTIMONY OF MR. STAN KAWAMOTO
13

14 Good morning. My name is Stan Kawamoto. I'm the
15 owner of J. Harper Contractors. I am primarily a
16 demolition contractor, and I do trucking on the side with
17 part of my other work.

18 I currently have four employees in the office. I
19 have -- depending on the good days that we're working -- I
20 have about six employees out in the field on jobs.

21 When I'm running my trucks on the third runway
22 now, we currently have 12 more employees. So on any given
23 day, I can have anywhere from 10 to 22 employees working.

24 In the good years, I can do annually about 2 to
25 \$3 million. And I guess the point that I'm bringing up as

1 a small business where I'm -- I have to be certified --
2 well, I am certified in the state of Oregon, Washington,
3 and Alaska -- and in order to do that annually I have to
4 provide my financial statements, the financial statement
5 from the company, personal financials to show those states
6 that I am a minority business owner.

7 And I just -- the concern I have is that when you
8 define a small business as having 500 employees, my
9 business can't compete against the 500 employees. When I
10 do annually on good years \$3 million, I can't compete
11 against the 10 million to \$100 million companies in doing
12 business. And in the construction industry that's
13 currently in the state right now with Fort Lewis, McChord,
14 and the submarine bases, I don't get the opportunity a lot
15 of times to bid on those contracts because just the nature
16 of larger corporations coming in and bidding on it, and
17 then subbing it out to -- supposedly, subbing it out to
18 companies like mine.

19 So what I'm saying is that, you know, given the
20 opportunity to bid and to compete is what I'm looking for,
21 but -- and with the size standard as it is and with money
22 standards, I can't do that.

23 So thank you.

24 MS. CAVANAUGH: Thank you. Does anyone on the
25 panel have a question for Mr. Kawamoto?

1 MS. MARSHALL: I do. What would your
2 recommendation be then, sir? You don't like 500. What
3 number or what amount of receipts would you recommend?

4 MR. KAWAMOTO: Well, if I have 20 employees on a
5 good day, I mean, that to me is a small business. But if
6 I'm going to recommend a number, I would say 50 employees
7 or less and then look at somewhere around 5 to \$10 million
8 annually, but even 10 million to me is high. That gives --
9 and it's not to say that if we get some of the contracts
10 that are coming up, that we couldn't do that, but they
11 should be some flexibility in there for business like ours.

12 MS. MARSHALL: Thank you, sir.

13 MR. JORDAN: The current size standard, I
14 believe, for demolition is 12 million right now. I think.
15 Because you're a special trades contractor, right?

16 MR. KAWAMOTO: Yes.

17 MR. JORDAN: And I think the current size
18 standard is 12,000,004.

19 In the proposed rule that we came out with last
20 year, I think we proposed 150, but I'm not sure. We have
21 not proposed 500 employees across-the-board for any
22 industry.

23 MR. KAWAMOTO: But if you look at the companies
24 that have been doing the business in and around this area
25 for the federal projects, I would take look a look at who's

1 been doing that business and their size and the money that
2 they take in.

3 MR. JORDAN: That's very important. That's one
4 of the things we do look at. Thank you very much. We'll
5 look closer.

6 MS. CAVANAUGH: Conor Coughlin?

7
8
9 TESTIMONY OF MR. CONOR COUGHLIN

10
11 Good morning. My name is Conor Coughlin. I'm
12 the owner of Advanced Energy Services, a small electrical
13 contractor that's hoping to do business with various
14 government agents in regard to conservation efforts.

15 And I just want to quickly go over the 11 points
16 here and give you a perspective of those.

17 Regarding the current sizes, I do believe they're
18 not that difficult to understand. I think what's more
19 difficult understand is why they're not enforced, and what
20 we're going to do to get there.

21 And -- I'm going to sort of skip through this a
22 bit -- and going back on the receipt-based sizes, I would
23 hope that they would eliminate those, go back to just size
24 standards. I do believe a small business, over a hundred
25 employees, isn't a small business in the minds of most

1 Americans. I do not favor establishing different size
2 standards for the federal procurement process. It's just
3 one more complication in the whole process.

4 As regarding the tiered process, again, we're
5 just creating more paperwork, smaller, you know, tiered-
6 things put you into a size category that you may never get
7 out of. You'll only get the small business, if that, and
8 they're going to be few and far between.

9 As far as the affiliations regulations, I believe
10 that I agree with the current ones, and I'm against
11 allowing the franchises to take over on this, because the
12 franchises put the small independents out of business
13 completely.

14 As far as the joint ventures criteria, I believe
15 that it should be as it is now, where, you know, small
16 joint ventures should be limited to three offerings within
17 the two-year period.

18 The Grandfathering, we really need to look at
19 these companies that have benefited, the large companies
20 that have been buying out the little guys and are
21 Grandfathered in, and we talked -- you know -- you're
22 apparently dealing with this, but the Grandfathering should
23 not be allowed. Once you've reached that large status,
24 you're doing all right.

25 And as far as the possible impact on federal

1 agencies and the size standards, I don't see how any
2 federal agency can be impacted to the negative by using
3 small businesses within their communities. This is
4 America. These agencies operate within the communities.
5 It is the small business committee that needs the help.
6 The big boys got all the help they need already.

7 And then as far as the affiliations and the joint
8 capital ventures, I don't think that we need to change the
9 rules at all to allow for the joint capitalists to expand
10 any further along because it will impact the small guys.

11 Inclusion, I'd just like to mention a recent
12 report that I saw that the Department of Energy spent as
13 little as 4% of their budgeting on the small businesses
14 contracting. This is really -- puts an impact on this
15 whole nation's energy policies where we're supposedly --
16 the federal agents are all under a directive to reduce
17 consumption. Nothing's really happening in this regard.
18 Little guys like me could be working on facilities
19 throughout this nation, and we're not seeing it. We're not
20 getting access to any of these contracts. We don't even
21 get to know what the various different agencies are doing
22 to reduce their consumption or allowing others to come in
23 for energy auditing and other very simple tasks which are
24 held out from us.

25 Okay. Can I answer any questions?

[No response from the panel.]

MS. CAVANAUGH: Okay.

MR. COUGHLIN: Okay.

MS. CAVANAUGH: Well, thank you for your testimony, Mr. Coughlin.

The next speaker will be Joanne Wood followed by Dave Densley.

MR. JORDAN: Would you say what number you're up to?

MS. WOOD: Twenty-five.

TESTIMONY OF JOANNE WOOD

Good morning. My name is Joanne Wood, and I'm the president and owner of Engineering 2000, Inc. My company has four employees, and we have been in the Seattle area for 11 years.

Returning to the definition of a small business as 100 employees is necessary when you consider that the innovative research that issues forth from small businesses is disproportionate to their actual size. Small businesses are lean but not mean.

I believe that with a simple 100-employee maximum, small businesses will be given their fair share of

1 government contracts -- at least 23% of all contracts.
2 This benefits everyone. Small businesses grow with the
3 additional revenue available through government contracts,
4 and the government reaps the benefits of the creativity and
5 innovation of small businesses. And, hopefully, fewer
6 large corporations will slip under the radar during the
7 bidding process to unfairly win contracts that should be
8 going to small businesses

9 My business is two-fold, and I subcontract out to
10 the aerospace industry on high-technology engineering
11 projects on a short-term and a long-term basis, as well as
12 proposing to the government under the Small Business
13 Innovative Research Program. We were awarded an SBIR
14 contract a few years ago by the government through the
15 Department of Defense. We did not get the follow-on
16 contract after our successful Phases I and II. I did hear
17 that a large corporation that owned a small corporation,
18 and therefore slipped under, was awarded the contract.

19 Small businesses in America should be encouraged,
20 not discouraged from participation in the American economy.

21 Thank you for hearing my testimony.

22 MS. CAVANAUGH: Thank you for your comments.

23 Does anyone have a question for Ms. Woods -- Wood?

24 MS. WOOD: Wood.

25 MS. CAVANAUGH: Excuse me.

1 MR. JORDAN: No. Thank you.

2 MS. WOOD: Okay.

3 MS. MARSHALL: Thank you.

4 MS. CAVANAUGH: Thank you for coming.

5 Dave Densley?

6 The next speaker will be Ron Berenson
7 followed by Brian Peters.

8
9
10 TESTIMONY OF MR. RON BERENSON

11
12 MR. BERENSON: Thank you for giving me the
13 opportunity to speak to you today. My name is Ron
14 Berenson, and I'm the founder, president, and CEO of Xcyte
15 Therapies, which is a Seattle-based biotech company
16 focusing on developing new treatments for cancer.

17 Now, our company was founded in 1996, and we're
18 developing a novel therapeutic approach harnessing the
19 patient's own immune system to treat cancer.

20 When I founded the company in 1996, I had to meet
21 with numerous venture capitalists to secure funding for our
22 company. As you can well imagine, this is a highly
23 competitive process. Very few biotech companies are able
24 to secure funding from the venture-capital community.

25 Our company was fortunate to be backed by some of

1 the leading venture-capital companies including Arch, Alta,
2 Vulcan, Sprout, and MPM Capital.

3 Although, there are exceptions, the best biotech
4 companies receive their initial funding from venture
5 capitalists. Most, although not all, companies who do not
6 make the grade end up getting funding from either wealthy
7 individuals or angel investors, which are often a
8 composition of wealthy individuals.

9 What the proposed new SBIR rule actually does in
10 effect is exclude from consideration for SBIR funding the
11 very best biotech funding companies, that is, those that
12 are funded by venture capital companies. In a way this is
13 really a form of a reverse discrimination that is not in
14 the best interest of our country in general or the biotech
15 industry in particular.

16 Like all companies, biotech companies must set
17 priorities for their work. In today's competitive biotech
18 environment, what are funded are projects that give near-
19 term results, drugs that are in the clinic or are far along
20 in development, not early-stage, exploratory work.

21 In fact, what falls by the wayside and cannot be
22 funded through current standard levels of funding, such as
23 venture capital, are worthy projects that are of a more
24 exploratory nature, but have significant long-term
25 potential. However, because they are considered high-risk,

1 the company itself cannot justify the spending of its own
2 precious resource to work on these projects. This is where
3 the SBIR grant process serves such a critical role. These
4 venture-capital backed biotech companies have outstanding
5 capabilities that have been put in place through the
6 infrastructure supported by the venture capitalists. They
7 have an outstanding skilled research team, excellent
8 facilities to conduct all levels of work including the
9 exploratory research. What is simply lacking to do this
10 exploratory work is a source of funding. And if
11 successful, the work that could be supported and has been
12 through SBIR grants leads to new therapies, new jobs, and
13 contributes to the company's success. This is a win-win-
14 win for everyone. What you are simply doing is taking one
15 plus one and making three, and a little government
16 support -- and I mean a little -- goes a long way in this
17 process.

18 I want to give you now an example, and that's our
19 company, Xcyte Therapies. As I said, we're focused on
20 developing new treatments for cancer. Given our company's
21 quite limited resources when we started, we could only work
22 on one project, and that was treating certain types of
23 cancers known as solid tumors, that is prostate cancer, and
24 kidney cancer is what we focused on. However, we knew and
25 believed that this treatment could be applied to other

1 cancers, such as leukemia. We simply didn't have the
2 funding to do this kind of high-risk research. So we
3 applied for an SBIR grant to support this work about three
4 years ago. What happened next, I think is truly a powerful
5 example of how important the SBIR grant process can be to
6 the success of biotech companies. We received a Phase I
7 grant, conducted research in leukemia, which was very
8 successful, and this led us to submit a Phase II grant,
9 which is for clinical testing. We actually obtained that
10 grant in early '04.

11 Unfortunately, we've been unable to use the
12 government funds to support this work because of the change
13 in the SBIR rules which make venture-capital funded
14 companies ineligible to receive these grants. So we're
15 stuck. We can't do very exciting work on our patients.

16 To summarize, the good news is the SBIR Phase I
17 grant gave us the ability to explore the potential use of
18 our new therapy in a new area. The bad news is we were
19 unable to use the SBIR grant to fully capitalize on the
20 work and study its new potential treatment for leukemia.

21 I now want to thank you for giving me the
22 opportunity to speak to you on this important subject
23 today.

24 MS. CAVANAUGH: Thank you, Dr. Berenson. Does
25 anyone on the panel have a question for him?

1 MR. JORDAN: No. Thank you.

2 MS. CAVANAUGH: Thank you.

3 Brian Peters? Charles Maise?

4 MR. MAISE: Yes.

5 MS. CAVANAUGH: Okay.

6
7
8 TESTIMONY OF MR. CHARLES MAISE
9

10 My name is Charles Maise, and I work for a -- I'm
11 a senior scientist at a small agricultural biotechnology
12 company known as Onawa. Onawa is a four-year-old company
13 that was developed from technology invented at the
14 University of Washington and the Fred Hutchinson Cancer
15 Research Center, and we're working on methods of non-
16 genetically modified plant crop improvement through
17 molecular breeding.

18 Now, this is a research company that has -- you
19 might appreciate, plant breeding to produce improved crop
20 and novel foods from crops -- is a long-term process, and
21 we have looked upon the SBIR program as a potential avenue
22 for supporting research in this area. And so I'm going to
23 focus my comments on the participation of businesses
24 majority-owned by venture capital companies in the SBIR
25 program.

1 And the SBIR grants that we've considered
2 applying for include the USDA SBIR programs, and we regard
3 this as an avenue to fund research that we wouldn't
4 otherwise be able to do, but the current situation in which
5 companies that have been successful in getting venture-
6 backed -- venture-company backing potentially being
7 ineligible for these funds has thrown our -- our motivation
8 to apply for these grants into some confusion. Because
9 we -- until the rule is finalized, we don't know whether we
10 will be eligible or not. And our current feeling is the --
11 the exclusion of venture-backed companies penalizes some of
12 the most successful companies, companies that have
13 developed innovative technologies that have been able to
14 get venture funding, but, as some of the previous speakers
15 mentioned, are in the Valley of Death between getting an
16 innovative technology backed by companies, but not yet
17 having a product on the market and being far from
18 profitability.

19 So we regard the SBIR program as a potential
20 source of funds, and currently the SBIR program has a very
21 good way of evaluating who's deserving of those funds,
22 namely, scientific merit and peer review. And we feel that
23 this is the best way to choose the meritorious research
24 projects and that venture-backed companies shouldn't be
25 penalized for being successful in acquiring venture backing

1 Thank you very much.

2 MS. CAVANAUGH: Thank you, Mr. Maise. Does
3 anyone on the panel have a question for him?

4 MR. JORDAN: No. Thank you.

5 MS. CAVANAUGH: Thank you.

6 Paul Abrams?

7
8
9 TESTIMONY OF MR. PAUL ABRAMS

10
11 Yes. Thank you very much for the opportunity of
12 responding to the proposed rule making of the Small
13 Business Administration.

14 My testimony is focused entirely on the
15 eligibility of venture-capital owned companies for SBIR
16 grants in the health sciences.

17 I've been the chief executive officer for two
18 different biotechnology companies following six years as
19 the chief medical officer of one. I'm a board certified
20 oncologist. I was trained at the National Cancer
21 Institute. I've published more than 60 papers in
22 scientific journals, edited two books, have been an
23 inventor on 12 US patents, and have degrees in both
24 medicine and law from Yale.

25 Let me begin by stating simply that it seems to

1 me a bit strange to be discussing this at all. For several
2 decades SBIR grants were made to venture capital-backed
3 companies without any question about the qualification of
4 these companies as small businesses because of such
5 ownership.

6 Indeed, in my personal experience, there were
7 instances when the ownership by a major corporation of a
8 small percentage of my company's stock raised such
9 questions that needed to be addressed, but never the
10 venture ownership of the company. And I say that to
11 indicate very clearly that nobody was asleep at the wheel
12 in terms of understanding what the ownership of the company
13 was. So it wasn't just an oversight. Recall also, that
14 SBIR Phase II applications include a statement by the small
15 company about how it's going to commercialize the final
16 product if successful. And for biotechnology companies,
17 this is nearly always answered by indicating a plan to
18 partner with a large company in the future.

19 The United States faces many profound challenges
20 from the rising needs and costs of health care for its
21 aging population to the hollowing of its economic base from
22 global competition and from the threat of armed terrorism
23 to the reality of climate change. These intensify the need
24 for us to maintain our sustainable competitive advantages.
25 Our competitors know what to do, and they are not shrinking

1 from doing it.

2 Biotechnology is one of the few remaining
3 industries in which the US enjoys a competitive advantage.
4 That did not occur by accident. It arose because of our
5 complex system of government investment in basic research
6 through the National Institutes of Health and grants to
7 academic institutions, the private/public partnerships that
8 have been enabled through SBIR grants and the Bayh-Dole Act
9 enabling technology transfer, and our flexible economic and
10 cultural system of risk-taking that includes not only
11 commensurate rewards, but also the opportunity to fail
12 without dishonor.

13 Biotechnology provides the potential answers to
14 many of our challenges. For example, in the year 2000 the
15 total annual expenditures on diabetes and its complications
16 exceeded \$100 billion. More effective, that is more
17 biologically-informed treatments have the opportunity of
18 eliminating this charge, and if you think about what this
19 would mean over a decade, that would be a trillion dollars
20 of health care costs that are currently projected to be
21 needed that would actually be eliminated by such a
22 breakthrough. And those breakthroughs, by the way, are
23 literally on the horizon.

24 As an industry that requires people with
25 education from high school all the way through advanced

1 degrees, it's an opportunity for filling some of those
2 hollowed areas of our economy.

3 The industry is already involved in producing
4 antidotes and treatments for potential bio-terrorism
5 attacks. The manufacturing that we do does no harm to the
6 environment, and thus there are low externalities of cost.
7 And finally, the technology can raise living standards
8 throughout the world by improving, for example, the
9 nutrient-quality of our food. The modification of rice to
10 incorporate vitamin A, thereby providing the essential
11 vitamin to areas of the world where rice is a staple diet.

12 The Achilles' heel of biotechnology, however, is
13 that the investment cycles are long, and the investment
14 required is very large just to get to proof of concept.
15 Moreover unlike electronics -- woo, boy [Dr. Abrams sees
16 his time-remaining signal] -- where the outcome is
17 predictable and the major issues are cost of manufacturing
18 and market acceptance, the ability to predict success at
19 early stages remains low. Only 18% of drugs that get into
20 Phase I -- Phase I clinical trials -- eventually make it to
21 market, and these Phase I drugs represent a small minority
22 of the projects originally undertaken, and the industry is
23 also highly regulated, which also increases the costs.
24 These costs have been estimated before you get into the
25 clinic of being between 50 and \$100 million, and ten years

1 from concept to product is not a conservative estimate.
2 For these reasons, it is unusual for individual investors,
3 no matter how wealthy or how well motivated by the non-
4 financial rewards, to be able to sustain a company long
5 enough into development that large investments of venture
6 capital from venture companies are not required.

7 The venture industry, itself, is becoming more
8 risk-averse as they have to meet the requirements of their
9 investors with more rapid returns; moreover, because of the
10 poor predictive ability in this industry, the likelihood of
11 success increases with multiple shots on goal.

12 SBIR grants should, therefore, be viewed in the
13 overall context of the industry, not as isolated events.
14 They enhance a company's ability to hire and retain highly-
15 skilled workers, contributing to cutting-edge R&D. Over
16 the longer run, they keep jobs in this country. SBIRs
17 enable the company to fund a program that is less advanced
18 than their lead providing a backup and thus reducing the
19 overall risk in this still extraordinarily high-risk
20 industry.

21 Indeed, the ability to get SBIRs is itself an
22 incentive for the venture capital companies to invest in
23 these companies at all, recognizing that their money need
24 not carry 100% of the risks and costs.

25 So I guess my time is up, but I just want to say

1 in conclusion that this is a system that's worked well for
2 decades. The venture ownership does not compromise the
3 small business criteria. There does not appear to be any
4 statutory reason to change that. There are considerable
5 economic and competitive reasons to maintain the present
6 system. Our competitors know exactly what to do, and
7 they're doing it. This is not the time to retreat.

8 Thank you very much.

9 MS. CAVANAUGH: Thank you, Dr. Abrams.

10 Does anyone on the panel have a question?

11 MR. JORDAN: No. Thank you very much.

12 MS. CAVANAUGH: Okay. If you haven't already
13 done so, you're welcome to leave a written copy of your
14 testimony --

15 MR. JORDAN: At the front desk, I believe.

16 MS. CAVANAUGH: Yes.

17 MR. ABRAMS: Out front?

18 MS. CAVANAUGH: Front desk. Thank you.

19 Dave Densley?

20 MR. DENSLEY: Good morning.

21 MS. CAVANAUGH: Good morning.

1 TESTIMONY OF MR. DAVE DENSLEY

2
3 I'm here to talk about the small business
4 standards. I'm with Technology Integration Group. We're a
5 reseller to corporate, government, and education accounts,
6 located in Bellevue and headquartered in San Diego.

7 Technology Integration Group, a minority-owned,
8 small business, strongly opposes all -- any aspect changes
9 of potential rule changes to the non-manufacturing size
10 standards.

11 The management and employees of TIG specifically
12 contest the revision of the non-manufacturer size standard
13 from 500 employees. Our company and many companies like
14 ours could be devastated by the immediate loss of our small
15 business status. My branch may be -- will be impacted
16 directly as will I personally. We believe the rules should
17 not be changed or modified. We believe the SBA should
18 concentrate on federal entities' utilization of small
19 business under the existing standards.

20 TIG has built a successful business model based
21 upon our status as a minority-owned, small business under
22 the current SBA guidelines and prides itself as an award-
23 winning diversity supplier. TIG's efforts are widely
24 recognized by our customers and industry partners. The
25 president and owner of TIG, Bruce Geier, has been

1 recognized by Ernst & Young as Entrepreneur of the Year and
2 by the US SBA as a Small Business Person of the Year. In
3 the past five years, TIG has received 14 industry awards
4 including: Outstanding Supplier of the Year, Outstanding
5 Just-In-Time Supplier of the Year, Exceptional Cost Savings
6 Supplier of the Year and Technical Support Supplier of the
7 Year for Sandia National Labs, Supplier of the Year by the
8 Southern California Minority Business Development Council,
9 and the SBA's Administrator's Award for Excellence.

10 TIG is committed to mentoring small and minority
11 businesses and actively contributes to the community.

12 A significant portion of our business is
13 providing quality products and services to the federal
14 government. Additionally, TIG is a Diversity Supplier to
15 many state, and local education customers as well as
16 federal prime contractors. Over 70% of our business is at
17 risk depending on what changes are made. TIG is one of the
18 tens of hundreds of companies that could lose their small
19 business status depending upon what modifications might be
20 made. We do not consider changes to be "net neutral." We
21 believe the harm wrought -- brought on by rule changes
22 would seriously impede the U.S. economy at a time when
23 economic growth and job creation provided by small
24 businesses are critical to the country's welfare and
25 security.

1 Our specific concerns on the rule changes would
2 be as follows: No reason for change, the SBA has not made
3 a compelling case for the need to change the existing
4 rules; simplifies nothing, the SBA has failed to provide
5 any supporting documentation to justify its belief that
6 size standards are complicated and in need of change; any
7 non-manufacturing change is a net loss. Any change to the
8 non-manufacturing size standard from 500 is a pure net
9 loss. Firms will cease to qualify for federal Small
10 Business procurement programs; helps large business,
11 current small business contracts of any size will go to
12 large businesses. Companies with fewer than 100 employees
13 do not have the bandwidth or financial resources to manage
14 their larger contracts. So existing rules should remain
15 intact; increases unemployment, rule changes encourage
16 companies to find other means to accomplish their tasks
17 other than hiring new employees. In many cases, companies
18 will implement immediate layoffs in order to meet the new
19 size standards; reduces competition, competition benefits
20 both the federal government and the American taxpayers.
21 Rule change will limit competition by drastically reducing
22 the pool of businesses eligible to compete for federal
23 procurement dollars.

24 No rule change is the most acceptable solution to
25 the small business community. It is in the best interest

1 of government procurement, preserving our company and the
2 livelihood of our 274 employees and their families, and the
3 welfare of the other small business owners and their
4 employees who urge the SBGA to choose the no-rule-change
5 option and immediately withdraw efforts to make any
6 changes.

7 Thank you.

8 MS. CAVANAUGH: Thank you for your comments,
9 Mr. Densley.

10 Does anyone on the panel have a question for
11 him?

12 MR. JORDAN: No. Thank you.

13 MR. DENSLEY: Great. Thank you.

14 MS. CAVANAUGH: Our next speakers will be Victor
15 Valdez followed by Ron Wallin.

16 MR. VALDEZ: Could I ask you, please -- there was
17 an individual from our organization that was supposed to be
18 here to provide comment, but could not make it due to a
19 traffic accident on the Narrows Bridge. She couldn't get
20 across from Gig Harbor, but her statement is fairly short,
21 and if you would allow that. So her name you'll find on
22 your list is Kathy Hobbs, owner of Media Logic.

23 MS. MARSHALL: You're asking for extra time?

24 MR. VALDEZ: Perhaps. My comments aren't
25 tremendously lengthy, either. So maybe we can cover it all

1 in the five minutes.

2 MS. CAVANAUGH: What did you say her name was?
3 Kathy --

4 MR. VALDEZ: Kathy Hobbs, and her firm is Media
5 Logic.

6 MS. CAVANAUGH: Well, actually --

7 MR. VALDEZ: You don't have her on the list.

8 MS. CAVANAUGH: I don't have her on the list, but
9 if you have a copy of her written testimony, we'd be happy
10 to accept it and include it in the administrative record.

11 MR. JORDAN: She's in the attendees only.

12 MS. CAVANAUGH: Oh. Okay.

13 MR. VALDEZ: Oh. Okay.

14 MR. JORDAN: That's what I have her down for,
15 anyway.

16 MS. CAVANAUGH: Okay.

17 MR. VALDEZ: So would you like me to read the
18 statement or just give it to you? Either way.

19 MS. CAVANAUGH: Okay. It looks short, so go
20 ahead.

21 MR. VALDEZ: Okay.

22

23

24

25

1 TESTIMONY OF MS. KATHY HOBBS

2 [Read into the record by Mr. Victor Valdez.]

3
4 I'm Kathy Hobbs, president and CEO of Media
5 Logic, located in the general Seattle area. Our company
6 has participated in the SBA 8(a) program since 2001. As a
7 business that specifically partners with major corporations
8 and local foundations resulting in technology career
9 opportunities that benefit our minority communities, I
10 would like the SBA hearing committee to know of our deep
11 concern with proposed changes to the SBA small business
12 size standards.

13 As a company, we strongly agree with Regina
14 Glenn's -- who testified earlier -- two points and thirteen
15 recommendations presented today. In particular, we note
16 that changes and especially grandfathering could
17 potentially allow companies we may partner with to meet the
18 size standards on their own. These changes would
19 essentially nullify the intent of the original legislation
20 that the Small Business Administration was tasked with
21 supporting.

22 Since year 2000, the Pacific Northwest has
23 endured some of the highest unemployment in the nation.
24 Our economy depends on the strength of small business. The
25 proposed changes would add to the economic difficulties our

1 region already faces, nor would they be viewed by minority
2 communities and much of the electorate as just.

3 I urge the SBA hearing committee to recommend the
4 proposed changes not to be adopted, and the original size
5 standard be reinstated.

6 MS. CAVANAUGH: Thank you.

7 MR. VALDEZ: I can hand this to you, because I
8 also have Regina's as well, so that you'll have both.
9 Thank you for that.

10
11
12 TESTIMONY OF MR. VICTOR VALDEZ

13
14 My name is Victor Valdez. I'm the president of
15 the Northwest Minority Business Council. We are the
16 regional affiliate office of the National Minority Supplier
17 Development Council. You heard from one of our members
18 earlier, Mr. Ralph Iberra, in reference to some comments
19 submitted by our organization to Gary Jackson, the SBA
20 Assistant Administrator for size standards back on March
21 30th, 2005.

22 I'd like to read a little bit of what was
23 submitted to Gary Jackson for the record.

24 Notwithstanding the tremendous contribution that
25 small businesses add to the United States' economy, the

1 federal government as a buyer of goods and services
2 implemented policies that have not only hindered the growth
3 of the small business sector, it has established barriers
4 for participation in the federal procurement process that
5 has almost destroyed whole sectors of small business
6 participation, especially for minority-owned small
7 businesses.

8 Businesses of all sizes should share in the
9 opportunity to win and execute contracts with the federal
10 government, and the opportunity should never be diminished.

11 Without carving out contracting opportunities for
12 small businesses of all sizes, it is likely that only large
13 businesses would ever be able to obtain and execute
14 government contracts. Large businesses are able to exploit
15 economies of scale and economies of influence much more
16 effectively than their small business counterparts.

17 Size standards and the small business program
18 were created to provide an environment where small business
19 could grow and become competitively viable. A small
20 company's viability in an open, competitive marketplace is
21 a function of scale when facing competition from much
22 larger companies.

23 Certain size standards the SBA uses to determine
24 when a small business becomes a large business are totally
25 inadequate. The reason SBA's size standards for such

1 industries are inadequate is they do not even remotely
2 represent the size that the average small business should
3 be in a particular industry. Therefore as an organization,
4 we recommend a multi-tier size standards approach whereas
5 firms of similar size compete for government contracts.

6 So these are some of the thoughts as to why a
7 multi-tiered approach would not work, as we've heard from
8 various people that participated in discussions with regard
9 to multi-tiered approach.

10 One would be such a system may become cumbersome
11 and add significant administrative burden to SBA and the
12 federal contracting offices.

13 Two, such a system might not result in a net gain
14 in contracts to small businesses.

15 And three, such a system would result in many
16 companies that are now quite large being put back in the
17 small business set-aside system.

18 However, some of the ideas as to why a tiered
19 approach could work: The Department of Commerce is using
20 such a tiered system in the NextGen COMMITS program. This
21 multi-tiered contracting approach will enable many more
22 small businesses to participate in Department of Commerce
23 contracting and will increase the dollar value of contracts
24 going to small businesses many times over.

25 Secondly, certain agencies, such as the Food and

1 Drug Administration, have been using a tiered system for
2 years in making contracting decisions with no added
3 administrative burden.

4 And three, federal contracting offices already go
5 through a selection process to determine what contracts are
6 suitable for 8(a)s, HUBZones, Vets, Small Business and
7 Large Businesses. Adding the process of placing small
8 business contracts into the appropriate size categories
9 would not be an onerous administrative burden.

10 Thank you very much for your time.

11 MS. CAVANAUGH: Thank you.

12 MR. VALDEZ: Pardon?

13 MR. JORDAN: I said, Thank you.

14 MS. CAVANAUGH: Does anyone on the panel have a
15 question for Mr. Valdez?

16 Our next speaker will be Ron Wallen

17 MR. WALLIN: I wasn't prepared to speak.

18 MS. CAVANAUGH: No?

19 Brian Peters? Ed Almojuela?

20 MR. ALMOJUELA: My name is Ed Almojuela

21 [Mr. Almojuela pronounces his name differently
22 than it was just uttered].

23 MS. CAVANAUGH: Oh, sorry.

24 MR. ALMOJUELA: Yeah. You're the first one to
25 ever get it wrong.

1 TESTIMONY OF MR. ED ALMOJUELA

2
3 I am the president of SEIM Inc., a Native
4 American owned small business SIEM, was incorporated in
5 August 2001, with its main business to be a value-added
6 reseller of digital identity security products, other
7 information technology security devices and software, and
8 related technical consulting and support. SIEM has been
9 certified as a Minority Business by the Northwest Minority
10 Business Council since November 2001. At this time, SIEM
11 has no employees, has transacted no business, and has yet
12 to submit its application for the 8(a) Business Development
13 Program. The question is why.

14 There are two main reasons for this. The least
15 significant reason is that I have been vice president of
16 finance and administration and an officer of SPYRUS,
17 Incorporated, located in San Jose, California, since 1996
18 to the present. SPYRUS is also a small business founded in
19 1992, and it develops and produces hardware and software
20 products that encompass all of the critical components to
21 provide high assurance security for the digital identity
22 market. I work for SPYRUS mainly at my office in
23 Silverdale, Washington, and for three to four days per
24 month, I travel to San Jose. Since 2001 my plan has been
25 to transition from my position with SPYRUS to develop the

1 SIEM business. The key reason as to why I have not severed
2 my relationship with SPYRUS is that I am a corporate
3 officer, and in my own judgment, the situation over the
4 past several years has mandated that I remain in my
5 position until SPYRUS concludes the securing of its
6 additional capital requirements. The successful conclusion
7 of the financing should occur sometime in the near future.

8 As you might reasonably infer, SIEM is to be a
9 value-added reseller of SPYRUS products, and it is because
10 of that close relationship that I have with SPYRUS that I
11 have chosen not to conduct any SIEM business as a small
12 business or an 8(a) business, since I am still an officer
13 of SPYRUS.

14 However, as you may recall, the foregoing is the
15 least significant reason for not really activating SIEM's
16 business yet. The most significant reason gets down to,
17 I'm still not sure if the goals and ideologies of the SBA
18 and the annual targeted amounts for small business awards
19 established by the government are real and sincere and
20 actually directed at true small business.

21 I'm here to see if the true answer to my question
22 becomes more apparent or to perhaps have some influence on
23 the SBA's decisions that will help true small businesses
24 achieve their goals and thus enable the SBA to achieve its
25 objectives.

1 I apologize for not searching the SBA web site to
2 find its mission statement or statement of objectives, but
3 I have derived my own definitions of those things for the
4 SBA. To me the purpose of the SBA is to be sort of an
5 incubator for small businesses that give small businesses
6 an opportunity to adequately prepare and qualify themselves
7 to compete in a business market so that they hopefully can
8 ultimately succeed and thereby create employment and other
9 related economic benefits in the community. As an
10 incubator, the SBA at some reasonable point determines when
11 each business in a particular industry or business sector
12 is mature and successful enough to compete on its own as
13 something other than a small business.

14 With the above objectives in my mind that I have
15 defined for the SBA, I sincerely believe that the
16 Grandfathering of large businesses, allowing them to remain
17 in the small business database is in direct conflict. In
18 cases where a small business is acquired by a large
19 business, I believe that the small business no longer needs
20 the SBA as an incubator, as that role is now provided by
21 the acquiring large business. The large business can
22 provide vastly more support in the form of working capital,
23 greater expertise, and other support not normally available
24 to a true small business. At the point of the completion
25 of the acquisition of the small business by a large

1 business, the business should not be able to submit bids as
2 a small business. In my past experience while working for
3 other small businesses and when we were approached for
4 potential merger with large businesses, I always presumed
5 that although we would remain a wholly owned subsidiary,
6 that we would lose our small business status. It just made
7 sense that we were going to be one of the big guys now with
8 the advantage of all the big guy resources.

9 The other question is should small businesses be
10 able --

11 MS. CAVANAUGH: Actually --

12 MR. ALMOJUELA: Yeah.

13 MS. CAVANAUGH: We appreciate your comments and
14 I'm wondering if anyone on the panel has a question for
15 Mr. Almojuela.

16 MR. JORDAN: Just a question or a clarification,
17 because I can't tell when people are coming and going, the
18 question of SBA Grandfathering, SBA did not propose to
19 Grandfather businesses that are large -- or that are now
20 small to become -- to stay a small business. That came
21 about -- we're seeking information on that and people's
22 comments. Universally, right now, everybody's opposed to
23 it, which is -- we want to hear opposed and pro, but we had
24 a lot of comments suggesting that in the -- that came into
25 the Proposed Rule to Change Size Difference last summer,

1 the rule that was -- we withdrew it on July the 1st. And
2 there were so many comments, we thought, Well, we'll find
3 out what everybody thinks, and so far, everybody's opposed
4 to it this morning, but we want to hear it. We had
5 comments for. We had comments against.

6 MR. ALMOJUELA: There are two main comments I
7 really want to make here.

8 MR. JORDAN: Yeah, uh-huh.

9 MR. ALMOJUELA: One was -- well, in my written
10 testimony as well, I suggest that when a company
11 transitions that they be allowed --

12 MR. JORDAN: That I think --

13 MR. ALMOJUELA: -- two years to transition, not
14 the five.

15 MR. JORDAN: Correct. I think --

16 MR. ALMOJUELA: And then I do have a statement
17 here --

18 MR. JORDAN: -- we could guess that --

19 MR. ALMOJUELA: -- on the venture capital --

20 MR. JORDAN: Go ahead. Finish, please.

21 MR. ALMOJUELA: And I do have a comment here on
22 the venture capital is that I don't think that the venture
23 capitalists -- or getting venture capital should affect a
24 small business status to me -- except for if, in fact, it
25 is a large business venture capital fund, because some of

1 them do have their own venture capital funds, and I think
2 that would be a conflict.

3 MR. JORDAN: Thank you.

4 MR. ALMOJUELA: Okay.

5 MS. CAVANAUGH: If you have a copy of your
6 written testimony and haven't already done so, I would
7 encourage you --

8 MR. ALMOJUELA: Yeah. I gave it to her outside.

9 MS. CAVANAUGH: Thank you. Good.

10 MS. CAVANAUGH: L. David Tywer?

11
12
13 TESTIMONY OF MR. L. DAVID TYWER

14
15 Good morning. Thank you for the opportunity of
16 being here this morning.

17 I began my business operations of providing
18 surety bonding and commercial insurance to small businesses
19 in 1979 with an SBA loan. I've had the wonderful
20 opportunity of working with Diana Drake and many, many of
21 the staff and employees here at the SBA as particularly
22 8(a) contractors, over the years providing seminars and
23 working -- trying to develop the infrastructure of the
24 small business.

25 Very briefly, I'm the founder and past president

1 of the Tabor 100, which is an organization of 67 African-
2 American men and women focused around business issues. I'm
3 the chair of the African-American Partners for Prosperity.
4 I'm the co-chair of the MBIC committee for Victor's
5 operation, the Northwest Minority Business Council. We did
6 spend many days working on these size standards. I'm
7 involved very heavily in the community. I've written about
8 \$900 million of surety bonding for small businesses since
9 1979, many of those SBA guaranteed bonds. In short, I'm
10 very aware of issues relative to small businesses as it
11 concerns contracting.

12 I came here today to say to you that if you're
13 speaking about small business, please don't do anything to
14 hurt the firm's that are what we consider to be small
15 businesses, which is less than 50 employees and under \$10
16 million a year. Okay? Most of the firms that I work with
17 if they're doing \$6 million a year in receipts and have got
18 10 or 15 employees, they feel like they're big businesses.
19 When you get over 50 employees and over \$10 million, those
20 firms for many, many, many of us in this community -- I
21 don't work in Alaska, and Oregon, and so on -- when you get
22 up to here, you're in the big boys. You know, we
23 congratulate those guys. They're -- they're -- you know,
24 they're in the tall cotton. Over that, if you hurt those
25 people, you really are affecting this community, and so I

1 say whether it's multi-tiering, whatever you do in terms of
2 your efforts, please don't allow the large firms to come in
3 and destroy those firms that are under 50 employees and
4 under \$10 million in receipts because you will devastate
5 them. They hire a lot of people. They're the fabric of
6 the community. You know, that's what's going on here. So
7 -- that's almost 27 years of working with them, working
8 with this operation, I think I know that pretty well. And
9 any questions, I'd be happy to answer them.

10 MS. CAVANAUGH: Does anyone have any questions.

11 MR. JORDAN: No. Thank you.

12 MR. TYWER: Thank you for the opportunity.

13 MS. CAVANAUGH: Thank you, Mr. Tywer.

14 MR. JORDAN: Thank you.

15 MR. TYWER: Thank you so much.

16 MS. CAVANAUGH: Is there anyone else present who
17 registered to testify that hasn't had the opportunity to do
18 so yet? Is there anyone who didn't register to testify but
19 would like to do so?

20 Okay.

21 MR. BROWN: Hello.

22 MS. CAVANAUGH: Hello.

1 TESTIMONY OF MR. ANDREW BROWN

2
3 My name is Andrew Brown. I'm the director of
4 business development at Aculight Corporation. I'm one of
5 the small businesses Jay Inslee mentioned in his talk. We
6 were also the recipient of the SBA's award for excellence
7 in 2003, and noted -- I guess, one of the SBIR's
8 commercialization success stories.

9 I guess I just implore you to think very
10 carefully about the issue when it comes to VC-funded
11 companies, especially if they're more than 51% owned by
12 VCs, and how that changes the competitive landscape for
13 companies like Aculight.

14 Excuse me as I gather my thoughts here.

15 So we spun out a company actually a few years
16 ago, called Amlight Photonics. Who -- they brought in
17 quite a bit of VC funding, totally separate company from
18 us. We have really no ownership in them anymore. They do
19 not pursue -- as far as I know -- any of the SBIR-type
20 awards. They're really up and running and on their own.
21 The VC backing -- and it was very significant, many tens of
22 millions of dollars -- really got them over that hurdle,
23 but they came out of a company that was spawned in part by
24 the SBIR process.

25 And I think that is what I would consider a

1 success. You know, we developed that company, that
2 technology. We weaned that off of the SBIR process. We
3 sent it on its way. I would feel really bad if that
4 company came back to the SBIR program and tried to leverage
5 that funding that they've got and the capability that they
6 now have to try and take what I see as a piece of the
7 funding of the small business that I am still affiliated
8 with, has access to and really relies on, to develop new
9 technologies for our customers largely in the DOD, but also
10 in the NIH, NSF, NASA, et cetera. I would not feel that
11 was a level playing field at that point.

12 We had a previous speaker who talked about --
13 from biomed firm -- who talked about having a Phase I SBIR,
14 that he couldn't work on a Phase II because -- although he
15 had some very interesting results that showed it might be a
16 cure for leukemia, that sure seems like something that a
17 big business or a venture capital is going to come in and
18 just pick up in an instant. It's such a huge potential
19 market opportunity.

20 So I just implore you and the Small Business
21 Administration to continue doing the great stuff you're
22 doing, fund small businesses, but think very carefully
23 about you might upset the balance and the ability of small
24 businesses, such as Aculight, to really compete against
25 companies that have very significant funding from the VC

1 ownership.

2 MS. CAVANAUGH: Thank you for your comments.

3 MR. BROWN: Thanks a lot. I'd be happy to answer
4 any questions.

5 MS. CAVANAUGH: Does anyone --

6 MS. MARSHALL: I guess I just --

7 MR. BROWN: Yes. Please, go ahead.

8 MS. MARSHALL: -- need a clarification.

9 MR. BROWN: Yes.

10 MS. MARSHALL: The difference between Aculight
11 and this other spinoff is they -- They have -- you're
12 comfortable with the current definition of you have to have
13 the current amount of VC not more VC? Is that what you're
14 trying to say? What's the difference between who you are
15 and what you spun off?

16 MR. BROWN: The spun off company is totally
17 separate. We own nothing --

18 MS. MARSHALL: I understand that.

19 MR. BROWN: -- so they're a separate entity.

20 MS. MARSHALL: But you're -- what's the
21 difference?

22 MR. BROWN: They're almost 100% --

23 MS. MARSHALL: Tell me your definition --

24 MR. BROWN: They're almost 100% VC-owned.

25 MS. MARSHALL: That's what I wanted to hear. I

1 didn't know that.

2 MR. BROWN: Okay. And we're at 0% VC-owned.

3 MS. MARSHALL: Okay. That's what I wanted to
4 know. Thank you.

5 MR. BROWN: Okay. Thanks.

6 MS. CAVANAUGH: Is there anyone else who would
7 like to speak? Well, since no one else has expressed an
8 interest in speaking, I'd like to conclude by thanking you
9 again for participating in today's hearing. I assure you
10 that SBA will carefully study the testimony that was
11 presented today.

12 Deliberations on a new size standard policy will
13 commence at the close of the final hearing, which is
14 scheduled for June 29, 2005, in Los Angeles, and a new
15 policy will be proposed as quickly thereafter as possible.

16 The public will have an opportunity to comment on
17 any specific proposals that SBA issues in the future. And
18 we encourage you to do so since your participation in our
19 rulemaking process will help us do a better job for you.

20 So, once again, thank you for coming, and this
21 public hearing is adjourned.

22 [Hearing adjourned at 11:06 a.m.]

CERTIFICATE

STATE OF WASHINGTON)

) SS

COUNTY OF KING)

I, Carl T. Beck, a Notary Public in and for the State
of Washington do hereby certify:

That the foregoing hearing was taken before me at the
time and place therein set forth;

That the statements of the witnesses and all remarks
made at the time of the examination were recorded by voice
recognition by me, and thereafter transcribed under my
direction;

That the foregoing transcript is a true record of the
statements given by the witnesses and of all remarks made
at the time of the hearing, to the best of my ability.

Witness my hand and seal this 22nd day of June, 2005.

CARL T. BECK, Notary
Public in and for the State
Of Washington, residing at
King. Commission expires
June 26, 2007